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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **15.04.2024**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P(MD)No.975 of 2019
and
C.M.P(MD)No.5454 of 2019

K.T.Gunasekaran ... Petitioner/Petitioner
3rd Defendant

Vs.

1.A.Anandhan ... 1st Respondent/1st Respondent
Plaintiff

2.S.Chithra

3.P.Rajanbabu

4.K.Rajarajan

5.P.Ayakudi Ponnusamy Manikandan

6.P.Thangaraj ... Respondents 2 to 6/
Respondents 2 to 6/
Defendants 1, 2, 4 to 6

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order, dated

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30.11.2018 passed in I.A.No.266 of 2018 in O.S.No.100 of 2013 on the file of the I Additional District Court (PCR), Tiruchirappalli and to allow this Civil Revision Petition.

For Petitioner : Mr.Shangar Murali

For R-1 : Mr.A.Robinson
For R-2 to R-6 : No appearance

ORDER

The present revision petition has been filed by the third defendant in O.S.No.100 of 2013 on the file of the First Additional District Court (PCR), Tiruchirappalli, challenging an order refusing to condone the delay of 140 days in filing an application to set aside the *ex parte* decree.

2. The first respondent herein as plaintiff has filed O.S.No.100 of 2013 for the relief of specific performance as against the first defendant and alternatively had prayed for a recovery of sum of Rs.62,50,000/- from the first defendant through the third defendant, for the relief of permanent injunction restraining the defendants 1 and 2 from alienating the suit 'A' schedule property and for the relief of permanent injunction restraining the third defendant from encumbering the suit 'B' schedule

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property. All the defendants had remained *ex parte* and an *ex parte* decree came to be passed on 09.11.2017. The Trial Court had decreed the suit only as against the first defendant for the relief of specific performance and for the relief of execution of sale deed as against the first defendant. In other respects, the suit has been dismissed. Therefore, it is clear that the Trial Court has not passed any decree as against the third defendant. In such circumstances, the third defendant has no *locus standi* whatsoever to file an application to condone the delay in filing an application to set aside the *ex parte* decree.

3. In view of the above said facts, there are no merits in the revision petition. Hence, this Civil Revision Petition stands dismissed. However, if the third defendant has got any grievance as against the other co-defendants or the plaintiff, it is left open to him to challenge the same in a manner known to law. There shall be no order as to costs. Consequently, connected Miscellaneous Petition stands closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

1.The I Additional District Court (PCR),
Tiruchirappalli.

2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.

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R.VIJAYAKUMAR, J.

BTR

Order made in
C.R.P(MD)No.975 of 2019

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