



C.R.P(MD)No.1155 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1155 of 2021

and

C.M.P(MD)No.6737 of 2021

K.Ponnusamy

... Revision Petitioner / 3rd Defendant

Vs

Arulmighu Sri Meiporulnathaswamy

Modakkur,

Aravakurichi Taluk,

represented by its Executive Officer,

Sri Kalyana Pasupatheeswaraswamy Devasthanam,

Karur.

... Respondent / Plaintiff

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order passed in I.A.No.296 of 2019 in O.S.No.152 of 2002 dated 14.08.2020, on the file of the District Munsif cum Judicial Magistrate, Aravakurichi.

For Petitioner : Mr.K.Suresh

For Respondent : No appearance



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ORDER

This Civil Revision Petition is filed to set aside the order passed in I.A.No.296 of 2019 in O.S.No.152 of 2002 dated 14.08.2020, on the file of the District Munsif cum Judicial Magistrate, Aravakurichi.

2. The suit in O.S.No.152 of 2002 was filed by the respondent herein seeking the relief of declaration that the suit property solely belongs to the temple, for delivery of possession, mesne profit and for costs. The revision petitioner entered appearance and filed the written statement. But later, failed to appear and therefore an *ex parte* decree was passed. To set aside the *ex parte* decree, I.A.No.296 of 2019 was filed to condone the delay of 637 days, stating that the case was posted for cross examination of P.W.1 on 24.03.2016. He was suffering from severe viral fever from the 2nd week of March, 2016. So he could not meet his Advocate and know the stage. After receiving the notice in the E.P., proceedings, he came to know about the *ex parte* decree passed on 24.03.2016. Even after receiving the notice in the E.P., proceedings he did not appear. Later he filed an application to set aside the order in the



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E.P. which is also stated to be pending. Therefore, there was a delay of 1456 days.

3. That was resisted by the respondent by filing a counter. after hearing both sides, the trial Court dismissed the petition stating that the reason is not acceptable. Against which this Civil Revision Petition is preferred.

4. Perusal of the order passed by the trial Court shows that in the main suit, the defendants 2 and 3 did not file their written statement. So *ex parte* decree was passed on 16.07.2010. To set aside the *ex parte* decree, they filed an application to condone the delay of 1456 days. The delay was condoned and later the case was posted for cross examination of P.W.1. Again the petitioner and second defendant failed to appear. Later on 24.03.2016 *ex parte* decree was passed.

5. To execute the decree, E.P. was filed. Even the E.P., they did not appear. In the E.P., proceedings also, *ex parte* order was passed. Later E.A.No.164 of 2016 was filed, to set aside the *ex parte* order, passed in the execution proceedings. Even after getting notice in the



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E.P., proceedings, no step was taken by the revision petitioner either to appear in the execution proceedings or even to file an application to set aside the ex parte decree in the main suit. Again they faulted in not taking steps immediately. The dates and event mentioned by the trial Court does indicate that the revision petitioner was not diligent during the trial proceedings. Having failed once, they ought to have been vigilant in the next time. They expressed their careless attitude in prosecuting the matter. Such sort of tendency cannot be encouraged and accepted.

6. I find absolutely no reason to interfere with the order passed by the District Munsif cum Judicial Magistrate, Aravakurichi, dated 14.08.2020 in I.A.No.296 of 2019 in O.S.No.152 of 2002.

7. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

12.12.2024

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

- 1.The District Munsif cum Judicial Magistrate, Aravakurichi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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