



WEB COPY

C.RP(MD)No. 1645 of 2



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 15.07.2024

CORAM

**THE HONOURABLE MR JUSTICE D.BHARATHA
CHAKRAVARTHY**

C.R.P(MD)No.1645 of 2022

and

C.M.P(MD)No.7212 of 2022

1.R.Kannan
2.V.Subburaj

..Revision petitioners/petitioners/
petitioners/defendants

Vs.

J.Jasmin

..Respondent/Respondent/
Respondent/Plaintiff

Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed in I.A.No. 5 of 2021 in I.A. No.2 of 2020 in O.S.No.43 of 2019 on the file of the Principal District and Sessions Judge, Virudhunagar District, Srivilliputhur, dated 18.02.2022.

For Petitioners
For Respondent

:Mr.S.Krishnan(No appearance)
:Mr.V.R.Shanmuganathan



ORDER

When the matter came up for hearing, Mr.S.Krishnan, learned counsel for petitioner represented that he has already given change of vakalat. The name of the petitioner is also printed in the cause list. No other counsel has come forward to file any change of vakalat and argue the matter.

2.On a perusal of the records, it can be seen that the petitioner filed an application to set aside the ex-parte decree along with the application to condone the delay in filing the same. The said delay application was allowed by the Trial Court on payment of Rs.1,000/- as cost. Even the said cost was not paid in time and thereafter, the present interlocutory application is filed in I.A.No.5 of 2021 to extend the time granted for paying sum of Rs. 1,000/-. The same is again filled with a further delay of five months. Considering the same, the trial Court by order dated 18.02.2022 dismissed the said application. The Civil Revision petition is filed, aggrieved by the said order of the trial Court.

3.Mr.VR.Shanmuganathan, learned counsel appearing on behalf the respondent would submit that the issue is no longer *res integra* and settled by this Court by the judgment in ***K.Rangasamy Gounder-Vs-Muthusamy Gounder and others*** reported in (2006) 2 LW 145.



4.I have considered the submission made by the learned counsel for the respondent and perused the material records of the case.

WEB COPY

5.When the petitioner has made an application to set aside the ex-parte decree along with the condone delay application, in spite of the legal position as argued by the learned counsel for the respondent ought to have pursued the same diligently. When the trial Court has taken a lenient view and allowed the application only by ordering a payment of Rs.1,000/-, the same is also not paid in time and thereafter, an application for extension of time is filled with a delay of five months. Even when the Civil Revision petition is filed against the order, the matter is not prosecuted neither the arguments are made on behalf of the petitioner. The parties cannot take the provisions to provide one more opportunity to them as a ruse to perpetually drag on the matter or delay the proceedings or with an oblique motive.

6.In view thereof, finding no merits, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

15.07.2024

NCC:Yes/No



WEB COPY

C.RP(MD)No. 1645 of 2



D.BHARATHA CHAKRAVARTHY, J.

Ns

To
The Principal District and
Sessions Judge,
Virudhunagar District,
Srivilliputhur.

**C.R.P(MD)No.1645 of 2022
and
C.M.P(MD)No.7212 of 2022**

15.07.2024