



CRP.No.598 of 2020

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.598 of 2020

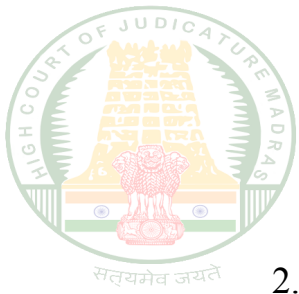
Maniyammal .. Petitioner
Versus
Ganesan .. Respondent

Prayer:- Civil Revision Petition filed under Section 115 of Code of Civil Procedure to set aside the fair and decretal order dated 19.09.2019 passed in I.A.No.481 of 2016 in O.S.No.340 of 2018 on the file of the learned Principal District Munsif, Tindivanam.

For Petitioner : Mr.I.Pragadeesh
for Mr.J.Prithivi
For Respondents : Court notice returned
(Insufficient address)

ORDER

Challenging the order of the trial court dismissing the application to condone the delay of 2520 days in filing the petition to set aside the exparte decree dated 23.10.2008, the present revision has been filed.

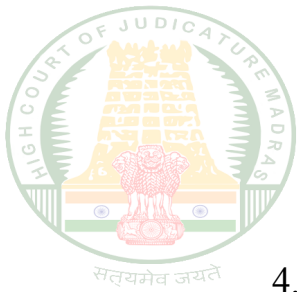


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2.The respondent has filed a suit in O.S.No.340 of 2008 on the file of the learned Principal District Munsif, Tindivanam as against the petitioner for the relief of specific performance. The suit was decreed exparte on 23.10.2008. Against which, the petitioner filed an application in I.A.No.481 of 2015 to condone the delay of 2520 days in filing the petition to set aside the exparte decree and the said application was dismissed vide order dated 19.09.2019. The only reason assigned by the petitioner to condone the delay is that she was not aware of the decree passed against her, she came to know only when notice in execution petition was served on 26.10.2015 and the petitioner has lack of knowledge about the court proceedings. Therefore, he could not contact his counsel to challenge the petition to set aside the exparte decree. The Trial Court dismissed the application vide order dated 19.09.2019. Challenging the same, the present revision.

3. The learned counsel for the petitioner submitted that the petitioner was not aware of the decree passed against her, she came to know only when the notice in execution petition was served on her on 26.10.2015 and the petitioner has lack of knowledge about the court proceedings. Therefore, the delay occurred. Hence, seeks for liberal approach.



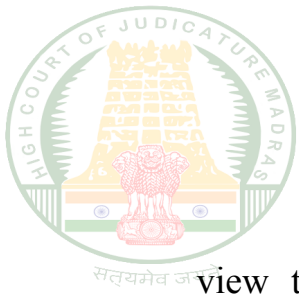
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4. Heard the learned counsel for the learned counsel for the petitioner and perused the materials placed on record.

5. The Court, in exercising discretion, particularly in these types of petitions, has to see the conduct, behaviour and attitude of a party relating to its inaction or negligence. The above factors are relevant to be taken into consideration as the fundamental principle is that Courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go-by in the name of liberal approach. There is an increasing tendency to perceive delay even in a non-serious matter. Hence, the delay due to nonchalant attitude should be curbed at the initial stage itself.

6. It is to be noted that even after the serving of notice on the petitioner in the execution petition, the petitioner had not entered appearance and conducted the case properly and was set exparte and no application was filed to set aside the exparte order in EP also. Therefore, having allowed the suit to be decreed exparte decree way back in the year 2008, the petitioner has also remained exparte in the execution proceedings also, this shows the callous attitude of the petitioner. This Court is of the



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view that the petitioner ought to have been vigilant in pursuing the litigation and the callous attitude of the petitioner cannot be brushed aside while deciding an application under Section 5 of the Limitation Act. Therefore, once the delay has not been explained and no documents are produced to substantiate the cause of delay, as a matter of right, the petitioner should not be shown any liberal approach. When there is 'no cause' for the delay, it cannot be treated as 'sufficient case'.

7. No doubt, every Court is bound by the precedents, however, the application of precedents should be consistent with the facts and circumstances of the case. It is relevant to note that the Hon'ble Supreme Court in the case of *Sridevi Datla vs. Union of India and others* reported in (2021) 5 SCC 321 held as follows:

“ 28. It is evident that the term sufficient cause is relative, fact dependent, and has many hues, largely deriving colour from the facts of each case, and the behaviour of the litigant who seeks condonation of delay (in approaching the court). However, what can broadly be said to be universally accepted is that in principle, the applicant must display bona fides, should not have been negligent, and the delay occasioned should not be such that condoning it would seriously prejudice the other party. ”

8. This Court is of the definite view that the delay cannot be condoned on insufficient grounds and by abusing the process of law. Such view of the



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matter, I do not find any infirmity in the order of the Trial Court dismissing the application filed under Section 5 of the Limitation Act.

9. Accordingly, this Civil Revision Petition is dismissed as devoid of merits. No costs.

08.07.2025

dhk

Internet : Yes
Index : Yes/No
Speaking order / Nonspeaking order
Neutral Citation : Yes/No

N. SATHISH KUMAR, J.

dhk

To

1. The Principal District Munsif
Principal District Munsif, Tindivanam



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2. The Section Officer
VR Section, Madras High Court

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