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CRP.No.2380 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P.No.2380 of 2025
and C.M.P.No.13779 of 2025

Asokan

.. Petitioner

Versus

Chokkalingam

.. Respondent

Prayer:- Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the fair and decretal order dated 11.08.2023 in I.A.No.68 of 2023 in O.S.No.171 of 2021 on the file of the Sub-Court, Thittagudi.

For Petitioner : M/s.V.Srimathi
For Respondent : Mr.R.Veeramani

ORDER

Challenging the order of the Trial Court dismissing the application to condone the delay of 278 days in filing the petition to set aside the exparte decree dated 17.03.2022, the present revision has been filed.

2. The plaintiff has filed a suit in O.S.No.171 of 2021 on the file of the Subordinate Court, Thittagudi for recovery of money. The suit was decreed exparte on 17.03.2022. The petitioner filed an application in



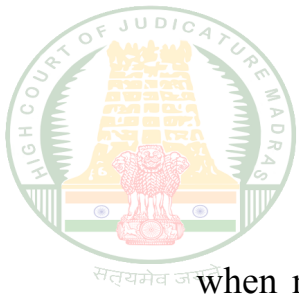
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I.A.No.68 of 2023 to condone the delay in filing the petition to set aside the exparte decree. The only reason assigned by the petitioner to condone the delay is that the petitioner was not aware of the suit and suit summons was not served on him. He came to know about exparte decree only when he received notice in execution proceedings. The Trial Court vide the impugned order dated 11.08.2023 dismissed the application, challenging the same, the present revision.

3. The learned counsel for the petitioner submitted that the summons were not served on him, he came to know about the exparte decree only when he received with regard to the execution proceedings. Hence, seeks for allowing this revision.

4. On the other hand, the learned counsel for the respondent submitted that the suit summons were served on the petitioner, whereas, the petitioner has put forth false allegations that summons was not served on him. The learned counsel also placed reliance on the judgment of the Hon'ble Supreme Court in *Majji Sannemma v. Reddy Sridevi and others* reported in *AIR 2022 SC 332*, wherein, the Hon'ble Supreme Court has held that



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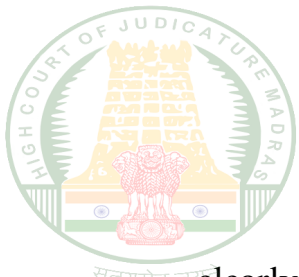
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when no explanation much less a sufficient or a satisfactory explanation has been offered by the appellants therein, the High Court is not at all justified in exercising its discretion to condone such a huge delay. Hence, the learned counsel opposed the revision.

5. Heard both sides and perused the materials placed on record.

6. 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.

7. It is the only contention of the petitioner/defendant that suit summons was not served on him. On perusal of the records, it would

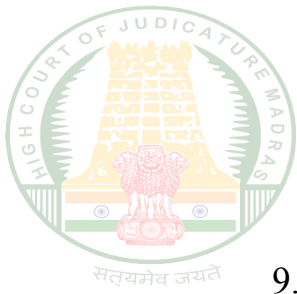


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clearly indicate that the suit summons was served to the petitioner/defendant on 11.01.2022 itself. Such view of the matter, the petitioner should not be shown any mercy when false allegations are being made before the Court in order to achieve his cause. The conduct of the petitioner does not seem to be bonafide. This Court is of the considered opinion that there is no infirmity in the order passed by the trial Court.

8. When there is 'no cause' for the delay, it cannot be treated as 'sufficient case'. This Court is of the 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. This Court is of the definite view that the delay cannot be condoned on insufficient grounds and by abusing the process of law.



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9. 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.”

10. Undoubtedly, even if the delay is huge and the reasons stated are satisfactory and genuine, the Court could condone the delay. But as, already held the reasons stated by the petitioner is not at all, satisfactory. This Court is of the definite opinion that no one can take advantage of his own wrongs.

11. Accordingly, this Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

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N. SATHISH KUMAR, J.

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

To

1. The Sub Judge
Sub Court, Thittagudi

2. The Section Officer
VR Section, Madras High Court

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