

Muniappan Chetti Vs. Balayan Chetti

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Court : Chennai

Decided On : Aug-04-1908

Reported in : 4Ind.Cas.1167

Judge : Sankaran Nair and ;Abdur Rahim, JJ.

Appellant : Muniappan Chetti

Respondent : Balayan Chetti

Judgement :

1. The appellant, the 6th defendant, filed a written statement, but failed to appear at any adjourned hearing, and a decree was passed against him in his absence. He has now applied under Section 108, Civil Procedure Code, to set aside the decree passed ex parte against him. Following the decisions in Ramanuja Reddiar v. Rangaswami Aiyangar 18 M.L.J. 51; 3 M.L.T. 225; Jonardhan Dhobey v. Ramdhone Singh 23 C. 738 ; Hildreth v. Sayaji Piraji Contractor 20 B. 380 and Shankar Dat Dube v. Radha Krishna 20 A. 195 which were apparently not cited before the learned Judge, we hold that the appellant is entitled to make this application. The lower Courts have not decided whether the appellant was prevented by sufficient cause from appearing when the suits was heard. It is also alleged that the application is barred by limitation. We, therefore, set aside the orders passed by the learned Judge and the Courts below and direct the District Munsif to restore the application to his file and dispose of it in accordance with law. Costs will abide the result.

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