

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)Nos.1552 of 2015
and M.P.No.1 of 2015

E. Natarajan

... Petitioner

VS

1. K. Natarajan
2. Dhanapakkiammal

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order dated 8.1.2015 passed in I.A.No.129 of 2012 in A.S.SR No.5092 of 2012 on the file of Subordinate Court, Tambaram.

For Petitioner : Mr.Pavel
For respondents : Mr.AR.L. Sundaresan
Senior counsel for
Mr.B. Vijay

ORDER

Challenging the fair and final order passed in I.A.No.129 of 2012 in unnumbered AS.SR No.5092 of 2012, on the file of Subordinate Court, Tambaram, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.712 of 1997, for declaration and permanent injunction. By judgment and decree dated 19.1.2010, the trial Court decreed the suit. Aggrieved over the same, the defendants 4 and 5 have filed an appeal in AS.SR.No.5092 of 2012 with the delay of 646 days in filing the appeal.

3. The defendants 4 and 5 filed an application in I.A.No.129 of 2012 to condone the delay of 646 days in filing the appeal, stating that the fourth defendant was admitted in the hospital on several occasions and to look after him, the fifth defendant was running along with the fourth defendant, due to which, they could not file the appeal in time.

4. The petitioner/plaintiff filed his counter and opposed the petition. The defendants 4 and 5 produced Ex.P.1 document to establish that the fourth defendant was hospitalised on several occasions.

5. The lower Appellate Court, after perusing the medical records, produced on behalf of the defendants 4 and 5, accepted the reasons for the delay and condoned the same.

6. Now, it is brought to the notice of this Court that the lower Appellate Court had already numbered the First Appeal in A.S.No.1 of 2015 and notice was also ordered to the petitioner/plaintiff.

7. The lower Appellate Court, having satisfied with the reasons stated in the affidavit, filed in support of the petition, had rightly condoned the delay, on payment of cost of Rs.5,000/-.

8. It is now brought to the notice of this Court that the petitioner/plaintiff had already received the cost amount of Rs.5,000/-. The reasoning of the lower Appellate Court, for condoning the delay of 646 days, is just and proper. I do not find any reason to interfere with the order passed by the lower Appellate Court in I.A.No.129 of 2012 in unnumbered AS.SR No.5092 of 2012, and in these circumstances, the Civil Revision Petition is liable to be dismissed as devoid of merits and accordingly, the same is dismissed. No costs. Consequently, connected MP is closed.

9. The Subordinate Judge, Tambaram is directed to dispose of the appeal in A.S.No.1 of 2015, on merits and in accordance with law, within a period of six months from the date of receipt of copy of this order.

17-06-2015

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Index:no
website:yes

To

The Subordinate Court, Tambaram

M. DURAISWAMY,J.,

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