

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.913 of 2011

P. Jayaraman

.... Petitioner

vs

Rajeswari

.... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order order passed in I.A.No.41 of 2007 in A.S.No. Nil of 2007 dated 25.12.2010 on the file of Subordinate Court at Vellore.

For Petitioner : Mr.R. Margabandhu

For respondent : Mr.V. Madhavan

ORDER

Challenging the fair and final order passed in I.A.No.41 of 2007 in unnumbered A.S.No. Nil of 2007 on the file of Subordinate Court, Vellore, the defendant in O.S.No.852 of 2000 has filed the above Civil Revision Petition.

2. The plaintiff filed a Suit in O.S.No.852 of 2000 for permanent injunction and for recovery of possession. The trial Court decreed the suit.

Aggrieved over the same, the defendant filed an appeal before the Subordinate Court, Vellore, with a delay of 399 days in filing the appeal. To condone the delay of 399 days in filing the appeal, the defendant filed an application in I.A.No.41 of 2007 in unnumbered A.S. No.Nil of 2007.

3. In the affidavit, filed in support of the petition, the defendant has stated that he was bedridden with acute jaundice and therefore, he was not able to move about and file the appeal in time. The averment stated in the affidavit, filed in support of the petition, was disputed by the plaintiff.

4. The trial Court, taking into consideration the case of both the parties, dismissed the application, finding that the reasoning given by the defendant, cannot be accepted.

5. Since the suit filed by the plaintiff was decreed and that the defendant had stated that he was suffering from illness and was not able to move about, I am of the considered view that in the interest of justice, the defendant could have been given an opportunity to file the appeal,

6. In these circumstances, the fair and decreetal order passed in I.A.No.41 of 2007 in unnumbered A.S.No.Nil of 2007 are set aside and the delay of 399 days in filing the appeal is condoned on condition that the petitioner/defendant, paying a sum of Rs.2,000/-(Rupees two thousand only)

to the respondent within a period of two weeks from the date of receipt of copy of this order.

7. It is made clear that the petitioner shall pay the said sum of Rs.2,000/-(Rupees two thousand only) to the counsel appearing for the respondent in this Civil Revision petition before this Court within the stipulated time.

8. With these observations, the Civil Revision Petition is allowed.

09-12-2015

sr

Index:no
website:yes

To

The Subordinate Court, Vellore

M. DURAISWAMY,J.,

sr

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