



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.06.2015

CORAM:

THE HONOURABLE MR.JUSTICE K.K.SASIDHARAN

C.R.P. (NPD) (MD) No.2091 of 2011

and

M.P. (MD) Nos.1 of 2011 & 1 of 2012

M.A.Nabisathul Tahira

...Petitioner / Respondent / Appellant

-vs-

P.Kalyani Siva

...Respondent / Petitioner / Respondent

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the petition and order, dated 07.06.2011, made in I.A.No.95 of 2009, in unregistered A.S., on the file of the Principal District Judge, Thoothukudi.

For Petitioner : Mr.P.Vijayakumar

For Respondent : Mr.M.P.Senthil

O R D E R

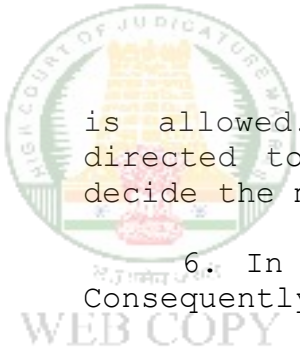
The petitioner suffered a decree in O.S.No.156 of 1999. The petitioner preferred first appeal before the learned Principal District Judge, Thoothukudi, along with an interlocutory application I.A.No.95 of 2009 to condone the delay of 2116 days in preferring the appeal. Even though the petitioner pleaded that on account of cancer she could not take steps to prefer appeal within the statutory period, the learned First Appellate Judge refused to condone the delay and rejected the application. The order dated, 07 June, 2011 is under challenge in this civil revision petition.

2. The learned counsel for the petitioner submitted that the petitioner has now produced sufficient documents to show that she has been taking treatment for cancer and as such she was prevented from justifiable cause from preferring appeal within the statutory period.

3. I have also heard the learned counsel appearing on behalf of the respondent.

4. The petitioner, in her affidavit filed in support of the application in I.A.No.95 of 2003, contended that she was taking treatment for cancer and as such she could not prefer appeal within the statutory period. The petitioner has now produced documents to show that she has been taking treatment. The medical certificate issued by the Medical Officer clearly shows that the petitioner has been taking treatment for cancer. Such being the factual position, I am of the view that the petitioner has made out a case for condoning the delay.

5. In the result, the order, dated 07 June, 2011, passed in I.A.No.95 of 2003 in unnumbered A.S., by the learned Principal District Judge, Thoothukudi, is set aside. The application in I.A.No.95 of 2003



is allowed. The learned Principal District Judge, Thoothukudi, is directed to register the first appeal preferred by the petitioner and decide the matter on merits.

6. In the upshot, I allow the civil revision petition. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To:

The Principal District Judge,
Principal District Court,
Thoothukudi.

+1cc to Mr.M.P.Senthil, Advocate in SR.No.26984

+1cc to Mr.R.Vijayakumar, Advocate in SR.No.27361

C.R.P.(NPD) (MD) No.2091 of 2011
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