

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.995 of 2015

Lalitha Narayan

... Petitioner

Vs.

Prem Shankar

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decree dated 02.02.2015 in I.A.No.6284 of 2014 in O.S.No.12824 of 2010 on the file of the V Additional City Civil Court, Chennai.

For Petitioner : Mr.G.Anand

For Respondent : Mr.N.Prem Kumar

ORDER

Challenging the fair and final order passed in I.A.No.6284 of 2014 in O.S.No.12824 of 2010 on the file of the V Additional City Civil Court, Chennai, the plaintiff has filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.12824 of 2010 for recovery of a sum of Rs.17,55,000/- together with interest at 18% per annum. The defendant filed his written statement in the year 2010 and was contesting the suit.

3.Since the plaintiff remained absent, the suit was dismissed for default by the trial Court on 06.08.2013. Thereafter, the plaintiff filed an application in I.A.No.6284 of 2014 to condone the delay of 191 days in filing the petition to restore the suit to file. In the affidavit filed in support of the petition, the plaintiff has stated that she was suffering from ailment and also became depressed and got heart problems. She has also produced medical certificates to substantiate the said contentions. The defendant filed his counter disputing the averments stated in the affidavit filed in support of the petition. In spite of the fact that the plaintiff has explained the reasons for the delay, the trial Court on an erroneous view dismissed the petition and declined to condone the delay.

4.I am of the considered view that the plaintiff has satisfactorily explained the reasons for the delay in her affidavit filed in support of the petition. In the interest of justice, the trial Court should have condoned the

delay and given an opportunity to the plaintiff to prosecute the matter on merits. In these circumstances, the fair and decreetal order passed in I.A.No.6284 of 2014 in O.S.No.12824 of 2010 are set aside. The application in I.A.No.6284 of 2014 stands allowed.

5.Since the suit is pending from the year 2010, I direct the V Additional Judge, City Civil Court, Chennai to dispose of the suit on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order and report the disposal of the suit to the Registry of this Court.

6.With this observation, the Civil Revision Petition is allowed. No costs.

Index : No
Internet : Yes
va

07.01.2016

To

The V Additional City Civil Court,
Chennai.

M.DURAIWAMY,J.
va

C.R.P.(NPD).No.995 of 2015

07.01.2016