

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.10.2016

Coram

The Hon'ble Mr.Justice M.DURAIWAMY

CRP(NPD)No.3197 of 2016

Nirmal Kumar
Prop of Kapil International
No.88, Godown Street
Chennai 600 001

...Petitioner

Vs

M.Ramachandra Rao (deceased)
B.Rajkumar
Prop of Bommanna Silks and
Bommanna Suiting House
C/o Vichitra Silk and Sarees
Hotel Brindavan Fort Gate
Rajahmundry 533 101

... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the order dated 30.07.2008 passed in I.A.No.16740 of 2007 in I.A.No.8275 of 2006 in O.S.No.6326 of 2002 by the learned II Assistant City Civil Court, Chennai.

For Petitioner : Mr.T.Sundar Rajan
For Respondent : Mr.T.K.S.Bharathi

O R D E R

Challenging the order dated 30.07.2008 passed in I.A.No.16740 of 2007 in I.A.No.8275 of 2006 in O.S.No.6326 of 2002 on the file of the II Assistant City Civil Court, Chennai. the plaintiff has filed the above Civil

Revision Petition.

2. The plaintiff has filed the suit in O.S.No.6326 of 2002 for recovery of money. During the pendency of the suit, the sole defendant had died. Hence, the plaintiff filed an application in I.A.No.8275 of 2006 to bring on record the legal representatives of the deceased defendant. The trial Court, allowed the application on 04.04.2007, on condition that the plaintiff paying a sum of Rs.500/- to the Legal Services Authority, Chennai, on or before 26.04.2007. However, the plaintiff did not comply with the conditional order passed by the trial Court. Further, there was no representation on behalf of the plaintiff on 27.04.2007. Hence, the application in I.A.No.8275 of 2006 was dismissed on 27.04.2007. Thereafter, the plaintiff filed the present application i.e., I.A.No.16740 of 2007 to condone the delay of 19 days in filing the application to restore I.A.No.8675 of 2006. Aggrieved over the dismissal order passed by the trial Court in I.A.No.16740 of 2007, the plaintiff has come before this Court.

3. Heard Mr.T.Sundar Rajan, learned counsel for the petitioner and Mr.T.K.S.Bharathy, learned counsel appearing for the respondent.

4. The application in I.A.No.8275 of 2006 was dismissed not only

for non prosecution of the application, but also on the ground that the plaintiff did not pay the cost amount of Rs.500/- to the Legal Services Authority. The plaintiff should have filed the application under Section 148 of the Code of Civil Procedure for extension of time to comply with the conditional order. Instead, the plaintiff has filed the application in I.A.No.16740 of 2007 to restore the application in I.A.No.8275 of 2006. Further, the plaintiff has not explained the reasons for the delay in a proper manner in the affidavit filed in support of the said application.

5. The suit was filed in the year 2002 and the same is kept pending by filing applications and the Civil Revision Petition. In fact, the Civil Revision Petition was filed on 05.11.2009 and it has been numbered only now. In these circumstances, I do not find any reason to interfere with the order passed by the trial Court. The Civil Revision Petition is devoid of merits and hence the same is dismissed. No costs.

07.10.2016

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To

The II Assistant City Civil Court, Chennai.

M.DURAI SWAMY,J

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