

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **21.03.2017**

CORAM

THE HONOURABLE Mr. JUSTICE **K.K.SASIDHARAN**

C.R.P (NPD).No.3743 of 2014

Mr.R.Subbaroyan

... Petitioner

Vs.

Mrs.P.Thiruvayee

... Respondent

PRAYER: The Civil Revision Petition filed against the order dated 11.06.2014 passed in I.A.No.585 of 2013 in O.S.No.108 of 2000 by the learned I Additional Subordinate Judge, Salem.

For Petitioner : Mr.P.Jagadeesan

For Respondent : Ms.Zeeneth Begam

ORDER

This Civil Revision Petition is directed against the order dated 11.06.2014 in I.A.No.585 of 2013 in O.S.No.108 of 2000 on the file of the learned I Additional Subordinate Judge, Salem in and by which, by exercising the discretion, the learned Judge was pleased to condone the delay of 2504 days in

representing the application filed by the respondent, to restore the suit which was dismissed for default on 11.01.2005.

2. The learned counsel appearing for the petitioner would contend that no reasons much less justifying reasons were given by the respondent in her affidavit filed in support of the interlocutory application for condoning the delay and as such, the trial Court was not correct in allowing the application and condoning the delay.

3. I have also heard the learned counsel for the respondent.

4. The respondent filed the suit in O.S.108 of 2000 before the Court below, for specific performance. The suit was contested by the petitioner by filing written statement. The suit was dismissed for default. The petitioner moved an interlocutory application within the statutory period, to restore the suit. The said application was returned for rectification, which was not represented within the time granted by the Court below. There was a delay of 2504 days in representing the application. The respondent filed the interlocutory application in I.A.No.585 of

2013 to condone the delay in representing the petition to restore the suit.

5. The trial Court, by order dated 11.6.2014, after taking into account the reasons given by the respondent, exercised the discretion and allowed the application. The said order is questioned in this revision petition.

6. There is no dispute that the respondent has not given explanation in so many words. She hails from a village. Having considered the explanation given by the respondent in her own version, the trial Court exercised the discretion and allowed the application. This Court cannot sit in appeal over the decision of the trial Court and substitute its opinion unless the trial Court has acted unreasonably or capriciously. In such view of the matter, no case is made out to interfere with the order.

The Civil Revision Petition is dismissed. No costs.

suk

21.03.2017

To

I Additional Subordinate Judge, Salem.

K.K.SASIDHARAN, J.

suk

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