

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Dated: 10.11.2017

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU**C.R.P. (NPD) (MD) .No.2293 of 2015**

Palaiya

... Petitioner

Vs.

Shanmugam

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of Civil Procedure Code against the fair and decreetal order dated 05.03.2015 in I.A.No.419 of 2014 in A.S.SR.No.195/7.11.2014 on the file of Principal District Judge, Tiruchirapalli.

For Petitioner : Mr.R.Sundar Srinivasan
For Respondent : No appearance

O R D E R

The Civil Revision Petition has been filed against the order passed by the learned Principal District Judge, Tiruchirapalli in I.A.No.419 of 2014 in A.S.SR.No.195/7.11.2014, dated 05.03.2015, for condoning the delay of 757 days in representing the appeal.

2. The petitioner has filed an appeal in A.S.SR.No.195/7.11.2014 before the Principal District Judge, Tiruchirapalli only on 01.03.2009 and the same was returned on 02.03.2009 granting time for representation. Since the papers were misplaced, it was not represented in time and hence, the delay of 757 days had occurred. Therefore, the petitioner has filed an application in I.A.No.419 of 2014 before the trial Court for condoning the delay of 757 days in representing the appeal. But, the trial Court has dismissed the application stating that there is no full details as to which case bundle is mingled with the appeal bundle and that as to whether the said case bundle was not handled for a period of around two years.

3. It is seen that the parties have handed over the filing of an appeal to their counsel and it is not in dispute that the appeal is filed and the delay in representation is only on the fault of the counsel and not on the fault of the parties. In the interest of justice, the trial Court should take into consideration the application filed by the Advocate's Clerk and



ought to have allowed the application as the parties should not suffer for the fault committed by the Advocate.

4. In the facts and circumstances of the case, this Court is inclined to interfere with the order passed by the learned Principal District Judge, Tiruchirapalli. Accordingly, the order passed by the learned Principal District Judge, Tiruchirapalli in I.A.No.419 of 2014 in A.S.SR.No.195/7.11.2014, dated 05.03.2015 is set aside and the delay is condoned and the Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar(A.S)

/True Copy/

Sub Assistant Registrar

To

The Principal District Judge,
Tiruchirapalli.

+1cc to Mr.R.SUNDAR SRINIVASAN Advocate in SR. No. 87116

AKV

JS/KK/SAR.3/6.12.2017/2P-3C

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