



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P. (NPD) (MD) No.3 of 2017

D.Joseph Jelesstin Paul

.. Petitioner/Petitioner/
Plaintiff

Vs.

P.Ganapathy Iyer

.. Respondent/Respondent/
Defendant

Civil Revision Petition filed under Section 115 of C.P.C., against the order dated 06.08.2016, passed in I.A.No.162 of 2015 in O.S.No.327 of 1997 on the file of the Principal District Munsif Court, Nagercoil.

For Petitioner : Mr.P.Subbiah

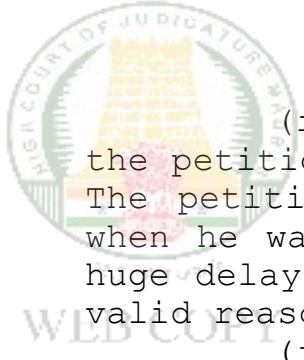
ORDER

This Civil Revision Petition has been filed against the order dated 06.08.2016, passed in I.A.No.162 of 2015 in O.S.No.327 of 1997 on the file of the Principal District Munsif Court, Nagercoil.

2. Facts of the case:

(i) The petitioner is the plaintiff and respondent is the defendant in the suit in O.S.No.327 of 1997 on the file of the Principal District Munsif Court, Nagercoil.

(ii) On application by petitioner, plaint was amended. After amendment, the plaint was returned on 12.06.2003 on the ground that the Court has no pecuniary jurisdiction and it has to be re-presented before the concerned Court, which is having pecuniary jurisdiction. The petitioner did not re-present the plaint. The petitioner filed I.A.No.162 of 2015 to condone the delay of 4087 days in re-presenting the plaint to be taken on file. According to the petitioner, he suffered heart ailments from the year 2008 to 2011 and therefore, he did not re-present the plaint. His Advocate died after 2010 and the petitioner engaged the present Advocate and filed the petition to condone the delay in re-presenting the plaint. Now, the pecuniary jurisdiction has been enhanced to Rs.1,00,000/- and the same Court has pecuniary jurisdiction to entertain and try the suit and filed application for condonation of delay of 4087 days in re-presenting plaint.



(iii) The respondent filed counter affidavit stating that the petitioner has not furnished any reason for such a huge delay. The petitioner has also not furnished any document to show that when he was suffering from heart ailment and the reason for such huge delay is not sufficient and the petitioner has not given any valid reason and prayed for dismissal of the application.

(iv) Before the learned Principal District Munsif, the petitioner examined himself as P.W.1 and marked 7 documents as Exs.A.1 to A.7. The respondent did not let any oral and documentary evidence.

(v) The learned Principal District Munsif considering the averments mentioned in the affidavit and the counter affidavit and also considering the materials available on record and evidence, dismissed the application holding that the petitioner ought to have re-presented the plaint within a reasonable time from the date of return, even when no time limit is prescribed for presentation and the petitioner has not properly explained the delay in re-presenting the plaint.

3. Against the said order dismissal dated 06.08.2016, the petitioner has come out with the present Civil Revision Petition.

4. The learned counsel for the petitioner submitted that the learned Principal District Munsif failed to consider the reason given by the petitioner and the documents filed by the petitioner. The learned Principal District Munsif failed to see that the petitioner by letting in both oral and documentary evidence had given valid reason for condonation of delay. The learned Principal District Munsif failed to see the fact that the previous counsel died in the year 2010 and he did not inform the petitioner with regard to return of the plaint. The learned Principal District Munsif ought to have considered the application for condonation of delay liberally and prayed for allowing the Civil Revision Petition.

5. I have heard the learned counsel for the petitioner and carefully perused the materials available on record.

6. It is an admitted fact that the plaint was returned on 12.06.2003 to be re-presented in the proper Court having pecuniary jurisdiction. The petitioner has not given any valid reason for the delay of 4087 days. The reason given by the petitioner in the affidavit as well as oral and documentary evidence, did not support the case of the petitioner that he was suffering from heart ailment for 11 years. Even if no time limit is prescribed for presentation, the petitioner ought to have presented the suit within a reasonable time. The learned Principal District Munsif considered all these aspects and rightly dismissed the application. There is no illegality or irregularity in the said order warranting interference by this Court.



7. In the result, the civil revision petition is dismissed.
No costs.

Sd/-

Assistant Registrar(CO)

/True copy/

WEB COPY

Sub Assistant Registrar

To

The Principal District Munsif
Nagercoil.

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CSL/SV-MMS/02.02.2017 :2P/2C

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