

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

DATED : 20.06.2017

CORAM :

WEB COPY

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN**CRP (NPD) (MD) No.1668 of 2015**

P.Murugan

... Petitioner

vs.

1) S.N.Raja

2) Rajammal

3) Chellappan

... Respondents

Petition filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order dated 15.04.2015 passed in I.A.No.128 of 2014 in A.S.SR.No.1302 of 2014 on the file of Principal Subordinate Judge, Nagercoil.

For Petitioner : Mr.R.Nandakumar

For R1 : Mr.M.P.Senthil

ORDER

This revision petition is directed against the dismissal of Section 5 application filed along with the appeal preferred by the revision petitioner.

2.The revision petitioner is the 1st defendant in the suit. Having lost the suit, he has preferred appeal with the delay of 57 days, but wrongly calculated as 7 days.

3.The appellate Court has gone through the pleadings and has observed that for delay of 57 days except quoting his avocation, the revision petitioner has not stated any other reason. Hence, not convinced by the reasons stated for the delay, the appellate Court has dismissed his application.

4.The counsel for the revision petitioner submits that the petitioner who is employed as a Conductor in the transport corporation was unable to get proper legal advice and contact the counsel in time. Hence, the delay has occurred. If for the delay, his right of appeal is deprived, he will be greatly prejudiced and it will cause irreparable loss to him.



5. Considering the nature of the suit and the delay in preferring appeal, it is appropriate to set aside the order passed by the appellate Court and allow this revision petition on condition to enable the revision petitioner to contest the first appeal on merits.

6. Accordingly, the order dated 15.04.2015 passed in I.A.No.128 of 2014 in A.S.SR.No.1302 of 2014 is set aside and this Civil Revision Petition is allowed on cost of Rs.5,000/- (Rupees Five Thousand Only) payable to the 1st respondent herein/plaintiff within 15 days from the receipt of this order. On production of proof for payment of cost, the first appellate Court shall take the appeal on file and proceed in accordance with law. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Nagercoil.

+1cc to M/S. R.NANDAKUMAR, Advocate, SR.No.61117.

+1cc to M/S. M.P.SENTHIL, Advocate, SR.No.61144.

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SDS/SKN:RSK/SAR 4/28.06.2017/2P/4C