

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

CIVIL REVISION PETITION NO.4887 OF 2011

ORDER:

This Civil Revision Petition is filed challenging the order dated 13.09.2011 passed in I.A.No.230 of 2010 in O.S.No.39 of 2008, wherein the Court below had dismissed the said I.A. which was filed with a delay of 527 days to restore the suit which was dismissed for default.

The petitioner has filed an affidavit to the effect that she lost her husband and she fell sick and consequently, there was a delay of 527 days in filing application to set aside the dismissal order dated 28.01.2009.

The Court below erred in dismissing I.A.No.230 of 2010 as the subject matter of O.S.No.39 of 2008 filed by the petitioner pertains to a property which is said to have been gifted by the father of the petitioner and the respondent had also filed O.S.No.32 of 2009 for partition of the suit schedule property and also for cancellation of gift settlement deed dated 18.11.2002. No prejudice would be caused to the respondent if I.A.No.230 of 2010 is allowed and O.S.No.39 of 2008 is restored to file and hear on merits.

Hence, the Civil Revision Petition is allowed directing the Court below to decide the suit filed by the petitioner on merits, as expeditiously as possible. There shall be no order as to costs. Miscellaneous petitions, if any, pending shall stand closed.

(ABHINAND KUMAR SHAVILI, J)

23rd October 2017
RRB