

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(PD).No.518 of 2018
and CMP.No.2720 of 2018

Elred Kumar

.. Petitioner

Vs

1. Annai Builders and Real Estate Pvt.Ltd.

Represented by its Managing Director

T.Narayanan, S/o.Thanushkodi,

No.76, Medvakkam Main Road,

Madipakkam, Chennai 600 091.

2.S.Shanmugam

3.Arthi Print House,

Rep.by its Proprietor Mr.Ramesh Babu,

No.22, Pooram Prakash Road,

Royapettah, Balaji Nagar, Chennai-600 014.

4.The Uco Bank,

Rep.by its Authorised Office,

No.32-B, Thambu Chetty Street,

Chennai-600 001.

.. Respondents

PRAYER

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 18.07.2017 passed by the learned Principal District Judge, Chengalpattu in IA.No.145 of 2016 in IA.No.711 of 2011 in OS.No.33

of 2007.

For Petitioner : Mr.Ravikumar Paul, Senior Counsel
for M/s.Paul and Paul

ORDER

According to the revision petitioner, the first respondent has filed a suit in OS.No.33 of 2007 for declaration and permanent injunction. The aforesaid suit was dismissed for on 24.07.2009 for non payment of batta. Thereafter, the first respondent has filed an application in IA.No.711 of 2011 under Section 5 of the Limitation Act to restore the suit along with a condone delay application to condone the delay of 728 days in filing an application to restore the suit. Subsequently, the aforesaid application was also dismissed for default. Therefore, the first respondent filed an application in IA.No.145 of 2016 under Section 5 of the Limitation Act to restore the above application along with a condone delay application to condone the delay of 173 days in filing an application to restore the above application, which was allowed on payment of cost of Rs.1,000/- without any reasons. Challenging the aforesaid order, the revision petitioner has filed the present Civil Revision Petition before this Court.

2. The learned Senior Counsel appearing for the revision

petitioner would submit that the conduct of the first respondent has would clearly shows an intention to harass the revision petitioner by purposefully filing application after application without showing keen interest to prosecute the case. Therefore, the said order passed by the court below is liable to set aside.

3. By considering the aforesaid facts and the submission made by the learned counsel for the revision petitioner, the court below has considered the instant application filed by the first respondent in IA.No.145 of 2016 under Section 5 of the Limitation Act to condone the delay of 173 days in filing the petition to restore the IA.No.711 of 2011 and allowed the same on payment of cost of Rs.1,000/-.

4. It is useful to extract the decision of the Hon'ble Supreme Court in the case of ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors., reported in (2013) 12 SCC 649***, the Hon'ble Supreme Court has observed that there should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to

remove injustice.

5. In the light of the above decision, even though there is some force on the contentions of the revision petitioner, the court below has allowed the instant application only to give an opportunity to the first respondent. Hence this Court does not warrant to interfere with the order passed by the court below. Therefore, the order passed by the court below is confirmed.

6. In the result, the Civil Revision Petition is dismissed. Consequently, the connected miscellaneous petition is closed. No costs.

19.02.2018

Speaking/Non-Speaking order

Index :Yes/No

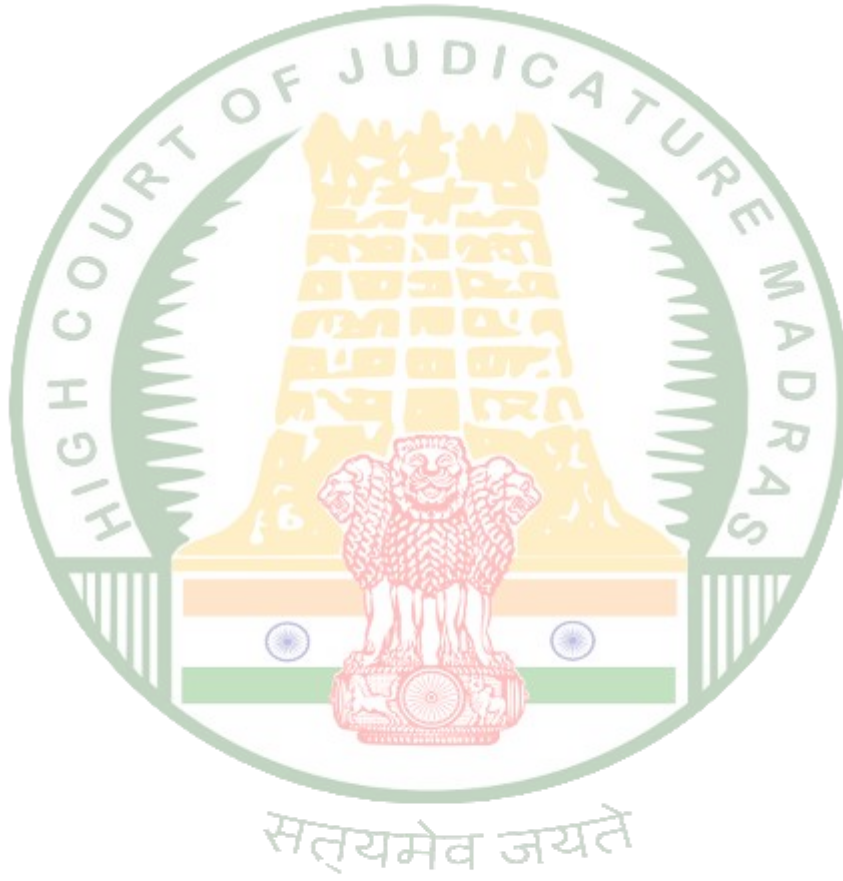
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To

The learned Principal District Judge,
Chengalpattu



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D. KRISHNAKUMAR J.,

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