

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.01.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (PD) No.1780 of 2016

Souprayon

.. Petitioner

Vs

- 1.Thilagavathy
- 2.Lakshmi @ Bagyavathi
- 3.Murugan
- 4.Raghupathi
- 5.Baskar
- 6.Govindammal
- 7.Ramani
- 8.Kanimozhi

.. Respondents

PRAYER: This Civil Revision Petition is filed under Section 115 of the Code of the Civil Procedure, to set aside the fair and decretal order dated 30.11.2015 made in I.A. No.2163 of 2015 in A.S. No.285 of 2006 on the file of the Court of the Principal District Judge, Puducherry.

For Petitioner :Mr.R.Vankatesulu

For Respondents :Mr.V.Raghavachari

ORDER

This Civil Revision Petition is filed against the dismissal order dated 30.11.2015 made in I.A. No.2163 of 2015 in A.S. No.285 of 2006 on the file of the Court of the Principal District Judge, Puducherry.

2.The learned counsel for the petitioner would submit that the petitioner has filed A.S. No.285 of 2006 against the judgment and decree dated 05.01.2005 in O.S. No.533 of 2000. The said Appeal was dismissed for non prosecution. Subsequently, the revision petitioner has filed an I.A. No.2163 of 2017 to condone the delay of 16 days in filing the Appeal Suit and the same was dismissed by the Court below. According to the learned counsel for the petitioner, the Court below without considering the reasons stated by the petitioner erroneously dismissed the aforesaid application. Hence, the Civil Revision Petition preferred by the petitioner before this Court.

3. Per contra, the learned counsel for the respondents would submit, the petitioner has an intention to drag on the proceedings. Primarily, the Appeal was dismissed as abated on 03.01.2007 against the

first respondent. Subsequently, it was posted for arguments, at this stage, on 18.03.2010, the appeal had been once again dismissed for default. Pursuant to that as per the order in I.A. No.76 of 2010 dated 27.09.2013 it was restored. Again it was posted for arguments, on 07.03.2015, the aforesaid appeal again dismissed and pointed out that *“No representation. Already sufficient opportunity given. Appeal is dismissed for default”*. Therefore, the petitioner has filed the instant application in I.A. No.2963 of 2017 on 23.04.2015 along with the condone delay. In view of the conduct of the petitioner, the Court below has rightly dismissed the said application.

4.By considering the facts and circumstances of the case, the learned counsel for the petitioner would submit that the said appeal is only at the stage of arguments. The learned counsel for the petitioner was not appeared before the Court due to illness, hence, the Counsel could not be able to argue the Appeal. But, however, by giving an opportunity to the petitioner/appellant, this Court is inclined to pass the following order:

1. In fine, the order passed by the Principal District Judge, Puducherry in I.A. No.2163 of 2015 in A.S. No.285 of 2006 is set aside.

2. On instructions the petitioner has to co operate for the early disposal of the above said Appeal Suit. If any default, on the part of the petitioner, the Court below has to proceed the case in accordance with law.

3. The Court below is directed to dispose of the Appeal Suit within a period of two months from the date of receipt of the copy of the order.

5. Accordingly, the Civil Revision Petition is allowed with the above directions. No costs.

29.01.2018

Index: Yes/ No

Internet: Yes/No

Speaking Order/Non Speaking Order

RKP

To

The Principal District Judge,
Puducherry.

D. KRISHNAKUMAR J.,
RKP



CRP (PD) No.1780 of 2016

WEB COPY

29.01.2018