



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.04.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.V. MURALIDARAN

C.R.P. (NPD) (MD) No.2430 of 2017

G. Ranjitham : Petitioner

-Vs-

1.N. Shaktivel

2.R. Murugan

: Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of CPC to set aside the fair and decreetal order made in I.A.No.916 of 2012 in O.S.No. 177 of 2004 dated 15.09.2017 on the file of the Principal Sub Court, Madurai.

For Petitioner : Mr. M. Thirunavukkarasu

For respondents : No appearance

O R D E R

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 15.09.2017 made in I.A.No.916 of 2012 in O.S.No. 177 of 2004 on the file of the Principal Sub Court, Madurai.

2. The revision petitioner, who is the plaintiff, has filed a suit in O.S.No.177 of 2004, on the file of the Principal Sub Court, Madurai, for declaring the sale deed as null and void and for issuing a direction to the respondents / defendants to pay the cost of the suit to the plaintiff. Due to the non-appearance of the revision petitioner / plaintiff, the said suit was dismissed for default on 23.11.2009. Thereafter, the revision petitioner has filed an application in I.A.No.916 of 2012 to condone the delay of 720 days in filing an application to restore the said suit. The learned Principal Subordinate Judge, Madurai, dismissed the said Application stating that the petitioner has not given any valid reason to condone the delay. Aggrieved over the same, the revision petitioner has filed the present Civil Revision Petition.

3. The learned counsel appearing for the petitioner submitted <https://hcservices.ecourts.gov.in/hcservices/> due to stress and strain, the revision petitioner, who is a working woman at Thiruppur, was unable to communicate her counsel.



In such circumstances, the said suit was dismissed for default on 23.11.2009. He further submitted that the issue on hand requires adjudication of rights and title of the plaintiff and he prays for allowing this Civil Revision Petition.

4. It is well settled principles of law that application to condone the delay must be considered liberally and length of delay is not a criteria. The party must be given sufficient reasons for condoning the delay and the intention of the party must be *bona fide* and they must be given an opportunity to put forth their case on merits and should not be shut out at the threshold itself.

5. Keeping in mind the same, if the present case is looked into, this Court is of the view that the petition ought to be allowed and the order dated 15.09.2017 made in I.A.No.916 of 2012 in O.S.No. 177 of 2004 on the file of the Principal Sub Court, Madurai, is liable to be set aside, subject to certain conditions.

6. In the result, this Civil Revision Petition is allowed by setting aside the order dated 15.09.2017 made in I.A.No.916 of 2012 in O.S.No. 177 of 2004 on the file of the Principal Sub Court, Madurai, and the application in I.A.No.916 of 2012 is allowed and the delay is condoned on condition that the petitioner is directed to pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the respondent, within a period of two weeks from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

trp

To

The Principal Sub Judge,
Madurai.

Copy TO:- (2 COPIES)

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai

JAM/01/06/2018/ CM/ SAR 3/ 2P-4C

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