



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2018

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2202 of 2016 and
C.M.P. (MD) No.10180 of 2016

Sellammal

... Petitioner/Respondent/
3rd Defendant

Vs.

Palaniyammal

... Respondent/Petitioner/
Plaintiff

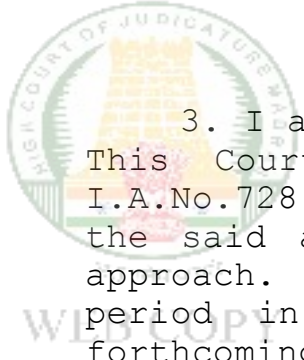
PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the records relating to the order in I.A.No.728 of 2009 in O.S.No.202 of 2004, dated 07.09.2016 on the file of the District Munsif, Turaiyur, set aside the same and allow this Civil Revision petition.

For Petitioner : Mr.N.Mohan
For Respondent : Mr.S.Muthukrishnan

O R D E R

The respondent herein filed O.S.No.1034 of 1995 on the file of the Sub Court, Tiruchirappalli, seeking the relief of specific performance. The suit was transferred to the file of the District Munsif Court, Turaiyur and re-numbered as O.S.No.202 of 2004. It was noticed that deficit Court fee of Rs.862.50/- will have to be paid and a cheque slip was issued. It was not complied with till 18.10.2005. The counsel for the plaintiff reported no instructions. The plaintiff was called absent. The suit was dismissed for default. To restore the suit, the plaintiff took steps. But then, there was a delay of 1781 days in the meanwhile. To condone the same, I.A.No.728 of 2009 was filed. The Court below by order dated 07.09.2016 condoned the delay and allowed I.A.No.728 of 2009. Questioning the same, this Civil Revision petition has been filed.

2. The learned counsel appearing for the respondent submitted that this Court need not interfere with the discretion exercised by the Court below. He also pointed out that the delay was condoned only on payment of cost.



3. I am of the view that the delay in this case is inordinate. This Court went through the affidavit filed in support of I.A.No.728 of 2009. Absolutely, no reason has been assigned in the said affidavit. The Court below has taken too liberal an approach. There must be some explanation broadly covering the period in question. In this case no such justification is forthcoming. Therefore, I am of the view that the Court below ought to have held that no sufficient cause was made out for condoning the inordinate delay of 1781 days.

4. In this view of the matter, the order impugned in this Civil Revision petition is set aside. The Civil Revision petition stands allowed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

SD/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The District Munsif,
Turaiyur.

COPY TO:

The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1. C.C. to M/S.S.Muthukrishnan, Advocate SR.No. 87396

C.R.P.(PD)(MD).No.2202 of 2016 and
C.M.P.(MD)No.10180 of 2016
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NM/SV/SAR 1/29.10.2018/2P/5C