



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2018

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) (NPD) No.1743 of 2018

S.S.Krishnaveni

...Petitioner/Petitioner/Plaintiff

Vs.

G.I.C.Finance Ltd.,
Represented by its Manager,
16/17, ARV Arcade, AR Plaza,
Vadakku Veli Veethi,
Madurai - 625 002.

...Respondent/Respondent/Defendant

Prayer: Civil Revision Petition - filed under Section 115 of the Code of the Civil Procedure, to set aside the fair and decreetal order passed in I.A.No.143 of 2018 in O.S.No.92 of 2009 dated 13.06.2018 on the file of the District Munsif Court, Melur.

For Petitioner: Mr.A.Sivasubramanian
For Respondent: Mr.M.Sankar

ORDER

The plaintiff in O.S.No.92 of 2009 on the file of the District Munsif Court, Melur is the revision petitioner herein. It is a suit for declaration and permanent injunction. The suit was dismissed for default on 17.12.2012. The plaintiff filed a petition under Order 9 Rule 9 CPC for restoration of the said suit. But, there was a delay of 1706 days in filing the said petition. To condone the delay, I.A.No.143 of 2018 was filed. The Court below by order dated 13.06.2018 dismissed the same. Challenging the said order, the civil revision petition has been filed.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the respondent submitted that the delay in this case is inordinate and the petitioner has not made out sufficient cause for condonation. Therefore, he wanted this Court to sustain the order impugned in this civil



4. No doubt, the delay committed by the revision petitioner is inordinate. But, then this Court has to look at the substantive aspects of the matter. The respondent had advanced loan to one Kamaladevi and since the said borrower committed default, the property in question was proceeded against. The revision petitioner herein purchased the said property, which bears the description - Plot No.7 in S.No.16/5, Iraniam Village. The property offered as security by Kamaladevi bears Plot No.6A. According to the respondent, the property purchased by the revision petitioner herein and the property offered as security by Kamaladevi are one and the same. That necessitated filing of the said suit.

5. In order to protect the rights of the petitioner, this Court is of the view that the revision petitioner shall be given one more opportunity.

6. The learned counsel appearing for the revision petitioner on instructions submits that the petitioner undertakes that he would pay a sum of Rs.25,000/- [Rupees Twenty Five Thousand only] as cost.

7. In view of the above, the revision petitioner is directed to deposit a sum of Rs.25,000/- [Rupees Twenty Five Thousand only] as cost, to the credit of O.S.No.92 of 2006 on the file of the District Munsif, Melur. The said cost amount shall be deposited within a period of four weeks from the date of receipt of a copy of this order. It is open to the defendant / respondent herein to withdraw the same.

8. Subject to the above condition and since this Court has also come to the conclusion that the petitioner has to be given one more opportunity, the order impugned in this civil revision petition dated 13.06.2018 passed in I.A.No.143 of 2018 in O.S.No.92 of 2009 is set aside and accordingly, this civil revision petition is allowed. Since the suit is of the year 2009, the Court below is directed to dispose of O.S.No.92 of 2009, within a period of six months from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (PROTOCOL)

// True Copy //

Sub Assistant Registrar (CS-I)



To

1. The District Munsif,
Melur.

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

+ 1 CC TO MR.A.SIVASUBRAMANIAN, ADVOCATE IN SR NO.85326
+ 1 CC TO MR.M.SANKAR, ADVOCATE IN SR NO.85106

SM

BU/RSK/SAR-I :23.10.2018 : 3P/6C

Order made in
C.R.P. (MD) (NPD) No.1743 of 2018
18.09.2018