

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD) NO.1132 OF 2018

Uma Sethuram

... Petitioner

Vs.

1.K.Muralidharan

2.M/s.Gokul Builders & Estates (Madras) Ltd.,
rep. by its Managing Director,
28, C.V.Raman Road,
Alwarpet, Chennai - 600018.

3.Ceebros Property Development,
Rep. by its Managing Director,
19/1, 3rd Cross Street,
R.A.Puram,
Chennai-600028.

... Respondents

PRAYER : Civil Revision Petition filed under Section 115 of CPC praying to set aside the order fair and decreetal order dated 16.12.2017 passed by the Principal Judge, City Civil Court, Chennai passed in C.M.P.SR.No.55674 of 2017 in A.S.SR.No.55674 of 2007.

For Petitioner

: Ms.M.Savithadevi

ORDER

This petition is preferred against the dismissal of a petition to condone the delay of 3733 days in representing the appeal by way of reconstructed papers.

2. Appeal is a statutory right of litigant. The reasons for non representation of the appeal was that the petitioner's husband met with a road accident and underwent major surgery for removal of spleen and died due to cancer in the year 2016.

3. The averments requires serious consideration and it cannot be slightly rejected without notice to the other side. The factum of representing the appeal in A.S.SR.No.55674 of 2007 cannot be denied. The woes of the petitioner can be proved by documentary evidence. It is well settled that if an application is filed, the trial Court shall number the same and decide the issue on merits and in accordance with law. However, in the instant case, the application filed by the petitioner was rejected at the SR Stage itself as one not having convincing reasons. If an opportunity is given, petitioner may be

in a position to submit the records of medical treatment of her husband and herself. Without giving an opportunity, the matter shall not be rejected at the threshold.

4. Considering the graveness of the stated incidences, which prevented the applicant from approaching the Court in time, the order dated 16.12.2017 passed in CMP.SR.No.55674 of 2017 in A.S.SR.No.55674 of 2007 by the learned Principal Judge, City Civil Court, Chennai is set aside and a direction is issued to the learned Principal Judge, City Civil Court, Chennai, to number the application filed by the petitioner and decide the matter on merits, after issuing notice to both parties.

5. The Civil Revision Petition is disposed of accordingly. No costs.

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Index : Yes/No
Internet : Yes/No
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M.GOVINDARAJ, J.

bkn/tk

To

The Principal Judge
City Civil Court
Chennai.



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23.08.2019