



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (NPD) (MD)No.1208 of 2011

Soosairaj

... Petitioner/Petitioner/Plaintiff

Vs.

S.Thomos Udaiyar

... Respondent/Respondent

PRAYER:- Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the Fair Order and Decreetal Order in I.A.No.398 of 2010 in O.S.No.314 of 2008 on the file of the District Munsif Court, Pudukkottai.

For Petitioner : Mr.M.Krishnaveni
For Respondent : Ms.S.Prabha
for Mr.S.Deenadhayalan

ORDER

The above civil revision petition has been filed by the petitioner/plaintiff against the dismissal of the petition seeking to condone the delay of 339 days in filing the application to restore the suit.

2.The facts in brief which are necessary for disposing the above civil revision petition, are as follows:-

The petitioner/plaintiff filed a suit for declaration and consequential injunction restraining the defendant from interfering with his peaceful possession and enjoyment of the suit property. It appears that the matter was listed on 05.03.2009 for trial. The plaintiff has been informed about the same by his counsel. Pursuant to the communication from the counsel, the petitioner/plaintiff had proceeded to the Court and on account of bus brake-down, he had reached the Court after the case was called. Hence, the suit was dismissed for default. Thereafter, in March 2010 the impugned application has been filed by the petitioner/plaintiff.

3.From the reading of the affidavit filed in support of the application to condone the delay of 339 days, it is totally bereft of reason whatsoever as to why the delay of 339 days has been occurred. Though in the affidavit, the petitioner / plaintiff has given reasons as to why the petitioner was unable to reach the Court in time on 05.03.2009, he has not given reasons for the delay. The learned District Munsif, Pudukkottai, by his order dated 27.10.2010 was pleased to dismiss the petition, against which, the present civil revision petition has been filed by the petitioner/plaintiff.



3. Heard the learned counsel on either side.

4. As held by the learned District Munsif, Pudukkottai, the petition seeking to condone the delay of 339 days for restoring the suit, is absolutely bereft of details. There is no cause that has been shown for the delay muchless a sufficient cause. It is needless to state that the application has been filed under Section 5 of Limitation Act, which does not warrant an automatic order and the person, who comes forward to file the petition seeking to condone the delay, should give sufficient reasons for the delay. Considering the fact that such cause has not been shown by the petitioner/plaintiff, the order passed by the learned District Munsif, Pudukkottai, does not warrant any interference from this Court.

5. In the result, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (cs-iii)

// True Copy //

Sub Assistant Registrar (CS)

To

The District Munsif ,
Pudukkottai.

+1 CC to MR.D. RAMESH KUMAR, Advocate (SR-85203[F] dated 05/09/2019)

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