



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.10.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (NPD) (MD)No.1550 of 2013

and

M.P(MD) No.1 of 2013

Vellaiammal

... Petitioner/Petitioner/Defendant

Vs.

V.Ravi

... Respondent/Respondent/Plaintiff

PRAYER:- Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order passed in I.A.No.814 of 2013 in O.S.No.662 of 2011 dated 03.07.2013 on the file of the Principal District Munsif Court, Tenkasi.

For Petitioner : Mr.M.Muthukamatchi

For Respondent : Mr.H.Arumugam

ORDER

The above civil revision petition has been filed challenging the order of the learned Principal District Munsif, Tenkasi, in dismissing the application filed by the defendant for condoning the delay of 101 days in filing the application to set aside the *ex parte* decree dated 12.12.2012.

2.The reason given for the delay is that though the petitioner/defendant had appeared and filed her written statement on 26.04.2012, since her counsel had reported no instructions, *ex parte* decree came to be passed. The petitioner would contend that the application filed by her to set aside the *ex parte* decree which was returned for certain compliance, was not re-presented in time and that the return was misplaced. Consequently, she could not be file the petition in time.

3. The respondent/plaintiff had contested the said application stating that it is nothing, but an attempt to protract the proceedings. The counter would also narrate the dates on which time has been taken by the revision petitioner. Consequently, the learned Principal District Munsif taking into account the contentions raised in the counter and on perusing the documents, was pleased to dismiss the said application. Challenging the same, the revision petitioner is before this Court.



4. Heard the learned appearing on either side and perused the papers.

5. The delay for the period of 101 days according to the petitioner had occurred only because the bundle has got misplaced and consequently, could not be represented in time. According to the petitioner, the delay was neither wilful nor wanton, but for the reason stated above.

6. Considering the fact that the reasonable cause has been shown for the delay and the fact that the suit is one for recovery of money, this Court is inclined to interfere with the order passed by the learned Principal District Munsif, Tenkasi. Accordingly, this Civil Revision Petition is allowed and the order dated 03.07.2013 passed in I.A.No.814 of 2013 in O.S.No.662 of 2011, on the file of the Principal District Munsif Court, Tenkasi, is set aside. Consequently, the ex parte decree passed in O.S.No.662 of 2011, dated 12.12.2012, is also set aside and the suit is restored to file. The learned Principal District Munsif, Tenkasi, is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order. No cost. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar(CS)

cp

To

The Principal District Munsif,
Tenkasi

+1CC TO MR.H.ARUMUGAM, Advocate Sr. No. 93616

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PM(CO)

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