



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.03.2019

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

CRP(MD) No.421 of 2019

and

C.M.P. (MD) No.2072 of 2019

Karthikeyan

... Petitioner/Respondent/Plaintiff

vs.

1. The Assistant Electric Engineer,
Operation & Maintenance,
TANGEDCO,
Rural West,
Thanjavur.

2. The Assistant Account Officer,
A.P.No.4, Try Region Camp O/O/EE/O&M,
Revenue Branch No.1,
Vallam Road,
Thanjavur.

3. The Executive Engineer,
O&M, TANGEDCO,
No.1, Vallam Road,
Thanjavur.

4. The Superintending Engineer,
Superintending Engineer Office,
TANGEDCO,
No.1, Vallam Road,
Thanjavur.

... Respondents/Petitioners/Defendants

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 28.09.2018 made in I.A.No.525 of 2017 in O.S.No.103 of 2013 on the file of learned Principal Subordinate Judge, Thanjavur.

For Petitioner : Mr.S.Deenadhayan

ORDER

<https://hcservices.ecourts.gov.in/hcservices/>
This Civil Revision Petition has been filed to set aside the order dated 28.09.2018 made in I.A.No.525 of 2017 in O.S.No.103 of 2013 by the learned Principal Subordinate Judge, Thanjavur.



2.I.A.No.525 of 2017 was filed by the respondents herein/defendants for condoning the delay of 1325 days in filing the petition to set aside the ex parte decree passed by the trial Court.

3.In the said I.A., the respondents herein/defendants contended that the notes / records were misplaced by them and hence, they could not meet their board of counsel in time for getting instructions and for preferring the written statement. Hence, the learned counsel for the respondents herein/defendants called absent on 17.03.2014 before the trial Court and only after a very long time, the missed records were traced and hence, the delay of 1325 days was occurred in filing the petition to set aside the ex parte decree passed by the trial Court.

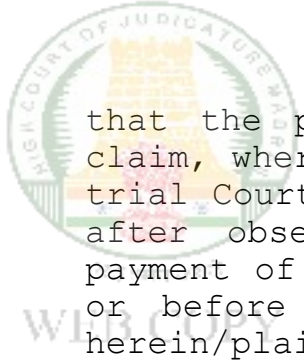
4.The respondents herein/defendants contended that the delay of 1325 days, which will not cause any loss to the other side, is a meagre one, whereas, the petitioner herein/plaintiff denied the reasons stated by the respondents herein/defendants for such abnormal delay. Hence, the delay is not a genuine one, which warrants interference of this Court. After observing the grievance raised on either side, the trial Court allowed the said I.A., against which, the petitioner/plaintiff has filed the present civil revision petition.

5.It is observed that the petitioner herein/the plaintiff filed a suit for permanent injunction, mandatory injunction and declaration. Regarding the abnormal delay of 1325 days that is caused by the respondents herein/defendants in preferring the petition to set aside the ex parte decree passed by the trial Court, the petitioner herein was examined and number of documents were also filed before the trial Court.

6.It is seen that the trial Court has observed that the value of recovery of the audit slip is Rs.15,63,466.00/-, the same is very huge and further the decree passed against the respondents herein/defendants by the trial Court is only an ex parte order and the same was not passed on merit. Further, if the delay petition is not condoned, there will be a lot of inconvenience for the respondents herein/defendants, as they are liable to pay the said huge amount.

7.The trial Court further observed that the respondents herein/defendants in the said petition was holding the additional post continuously during the default period and therefore, allowed the said petition. Challenging the same, the petitioner herein has filed this civil revision petition stating that the order of the trial Court is not proper in condoning the abnormal delay of 1325 days.

8.While considering the nature of relief that is sought by the petitioner herein/plaintiff and also the huge amount, it is observed



that the petitioner herein filed all the documents to prove his claim, whereas, the genuineness and merit were not proved before the trial Court by way of examining the same. However, the trial Court after observing all these facts, allowed the said petition on payment of cost of Rs.2,000/- to the petitioner herein/plaintiff on or before 10.10.2018. When this Court enquired the petitioner herein/plaintiff whether he has received the said cost on or before 10.10.2018, the petitioner herein/plaintiff is unable to say anything. Hence, without knowing the fact that whether he received the said cost or not and further, as the petitioner is not in a position to explain the status of the case, this Court is not inclined to entertain this petition.

9.Hence, this Civil Revision Petition is dismissed with cost of Rs.500/-. The petitioner is directed to pay a sum of Rs.500/- to the credit of Chief Justice Relief Fund within a period of one week from the date of receipt of a copy of this order and the order dated 28.09.2018 made in I.A.No.525 of 2017 in O.S.No.103 of 2013 on the file of learned Principal Subordinate Judge, Thanjavur, does not warrant any interference of this Court. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Thanjavur.

Copy To:-

The Section Officer, Accounts Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-51777[F] dated 05/03/2019)

MM

DS : 26/03/2019 : 3P/4C

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