



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.04.2019

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CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP(MD) No.1602 of 2018
and
C.M.P. (MD) No.7039 of 2018

Sasikala

... Petitioner/Appellant/1st defendant

vs.

1.Angammal

... Respondent/Respondent/Plaintiff

2.Union of India,
represented by its Secretary,
Ministry of Defence,
North Block,
New Delhi.

3.Col.As Chand
Officiating Officer incharge,
Record Office, Madras Engineer Group,
Bangalore- 560 042.

4. The Commanding Officer,
Head Quarters,
Deport B.N.
Madras Engineer Group and Centre,
Bangalore - 560 042.

... Respondents 2 to 3/Respondents 2 to 3/
Defendants 2 to 4

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in I.A.No.67 of 2017 in I.A.No.199 of 2016 dated 14.06.2018 by the learned Principal District Judge, Tiruchirappalli and to issue such other suitable orders or directions to the first appellate Court.

For Petitioner : No appearance

For R1 : Mr.P.Arun Jayatram

For R2 : Mr.D.Saravanan

**ORDER**

This Civil Revision Petition has been filed to set aside the order passed in I.A.No.67 of 2017 in I.A.No.199 of 2016 dated 14.06.2018 by the learned Principal District Judge, Tiruchirappalli.

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2.Before the trial Court, the petitioner herein is the first defendant and the first respondent herein is the plaintiff and the respondents 2 to 4 are the defendants 2 to 4. For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.I.A.No.67 of 2017 has been filed by the first defendant to condone the delay of 78 days in filing the petition to restore I.A.No.199 of 2016 in ASSR.No.5917 dated 23.08.2016, which was dismissed for default on 17.10.2016.

4.In the said I.A., the first defendant contended that he has preferred an appeal in A.S.No.5917 of 2016 against the judgment and decree dated 12.04.2014 passed in O.S.No.937 of 2016 by the learned I Additional Subordinate Judge, Tiruchirappalli. I.A.No.199 of 2016 was filed by the first defendant to condone the delay in filing the said appeal and the said appeal was posted for re-representation of the batta, but due to the ill health of the first respondent, he did not appear before the Court for paying the batta and hence, the appeal was dismissed on 17.10.2016 for non payment of batta.

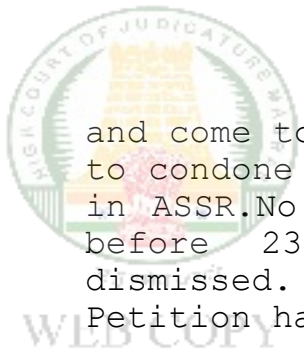
5.Thereafter, the first defendant filed I.A.No.67 of 2017 to condone the delay of 78 days in filing the petition to re-store the I.A.No.199 of 2016 in ASSR.No.5917 of 2016.

6.The trial Court after hearing the arguments advanced on either side, allowed the said petition, subject to a deposit a sum of Rs.2,00,000/- on or before 23.07.2018 into Court in that case number through her counsel, failing which, the petition shall stand dismissed.

7.No representation for the petitioner. The respondents are present.

8.From the records, it is observed that the petitioner herein/appellant is wife and the first respondent herein is the mother

of the deceased Sivakumar. The relationship between the petitioner herein and the first respondent herein is daughter-in-law and mother-in-law with each other. The first respondent has fought for getting the monetary death benefit of her son from the year of 2002 and further, the learned I Additional Subordinate Judge, Tiruchirappalli has passed the decree in the year 2016 but after getting the decree, the first respondent has not utilized the decree in her old age. The above said aspect was considered by the Court



and come to the conclusion, it is a fit case and hence, the petition to condone the delay of 78 days in re-storing the I.A.No.199 of 2016 in ASSR.No.5917 of 2016 on depositing a sum of Rs.2,00,000/- on or before 23.07.2018, failing which, the petition shall stand dismissed. Aggrieved by the said order, the present Civil Revision Petition has been filed.

9.In the ground, the first defendant contended that this Court has already passed an order for setting aside the salary attachment passed in E.P.No.6 of 2017, which was filed by the respondents, whereas, the said fact has not considered by the trial Court and even the conditional order passed by the trial Court is not proper and hence, the petitioner seeks the relief as stated above.

10.From the records, it is observed that based on the decree that is passed in the litigation between the mother-in-law and daughter-in-law, who are claiming right over the death cum benefits of the deceased husband and son. Since the said suit was filed in the year 2002, the decree was passed in the year 2014. Further, it is observed that the plaintiff is an aged person and now, she is living in very poverty by depending on others for maintaining herself and for livelihood whereas, the first defendant/the petitioner herein has very much delayed in taking notice to the respondents by paying batta in time.

11.The trial Court has already discussed the above facts very clearly and found that the attitude of the first defendant is only to drag on the proceedings when there is a decree for the relief sought by the first respondent herein, who is the mother of the said deceased and the responsibility of the first defendant is that if she is agreeing against the said decree, she would be provided with the Court order, whereas, the attitude of the first defendant is only for causing delay and preventing the respondents therein from getting the decree, because she being an old women.

12.In view of the above, there is no merit in this Civil Revision Petition and the order passed in I.A.No.67 of 2017 in I.A.No.199 of 2016 dated 14.06.2018 by the learned Principal District Judge, Tiruchirappalli, does not require any interference of this Court.

13.This Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //



To

The Principal District Judge,
Tiruchirappalli.

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+1 CC to Mr.P.ARUN JAYATRAM, Advocate (SR-60435[F] dated 11/04/2019)

+1 CC to Mr.D.SARAVANAN, Advocate (SR-60459[F] dated 11/04/2019)

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