



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.09.2019

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THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) .(MD) .No.1781 of 2017

Gangeswari

... Petitioner/Petitioner/Appellant

Vs.

1.Kannan

2.R.Santhakumar

3.Slochana

... Respondents/Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code against the order passed in I.A.No.67(A)/2014 in A.S.SR.No.2520 of 2014 on the file of the Subordinate Court, Padmanabhapuram, dated 12.07.2017.

For Petitioner : Mr.C.K.M.Appaji

For Respondents : Mr.D.Srinivasa Ragavan

O R D E R

The civil revision petition has been filed against the order of dismissal of the application filed by the revision petitioner herein to condone the delay of 105 days in filing the appeal in A.S.SR.No.2520 of 2014.

2. The Court below has dismissed the condone delay application on the ground that the reasons stated for not filing the appeal in time is not proved by the revision petitioner herein.

3. According to the revision petitioner, she was not in a position to file the appeal in time, due to the reason that she is a widow and suffering from paralytic attack for several months.

4. The learned counsel appearing for the revision petitioner would contend that the revision petitioner is a poor widow and she has not maintain the medical records and she has taken treatment only by way of country medicines. However, the learned counsel appearing for the respondents strongly opposed the contention of the petitioner stating that the revision petitioner has not produced any document to show that she has been suffering from paralytic attack for several months. He would further submit that the suit has been

<https://hcservices.courts.gov.in/hcservices/> filed for declaration of pathway and permanent injunction and the



same was dismissed on 27.11.2013 and hence, he prayed for dismissal of the revision petition.

5. Heard the learned counsel on either side and perused the materials available on record.

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6. The revision petitioner is a widow and suffering from paralytic attack for several months and she has taken treatment only by way of country medicines, for which she has not maintain any proper records, in order to produce the same before the Court below, at the time of filing the application to condone the delay of 105 days in filing the appeal. These facts have not been considered by the Court below and the Court below should have considered the delay of 105 days in filing the appeal.

7. For the purpose of interest of justice, this Court is of the view that the delay of 105 days needs to be condoned as the revision petitioner was suffering from paralytic attack and took country medicines, for which she was not able to produce medical records. For non-production of medical records, the Court below should not have rejected the application to condone the delay, on the other hand, the Court below should have allowed it by taking lenient view. Therefore, the order of the Court below is liable to be set aside. Accordingly, the Civil Revision Petition is allowed and the order passed by the learned Subordinate Judge, Padmanabhapuram in I.A.No.67(A)/2014 in A.S.SR.No.2520 of 2014, dated 12.07.2017 is set aside. While setting aside the order, this Court directs the learned Subordinate Judge, Padmanabhapuram to number the appeal and dispose of the same within a period of two months from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

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To

The Subordinate Judge, Padmanabhapuram.

+1 CC to M/s.C.K.M.APPAJI, Advocate (SR-89212[F] dated 25/09/2019)

+1 CC to M/s.D.SRINIVASARAGAVAN, Advocate (SR-89244[F] dt.25/09/2019

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JMN(04.11.2019) 2P : 4C