



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 08.04.2019

CORAM:

THE HONOURABLE MRS.JUSTICE J. NISHA BANU

C.R.P(MD)No.1016 of 2011 (NPD)
and
M.P.(MD).No.1 of 2011

T.Nachimuthu

.. Petitioner / Petitioner
Appellant / Defendant

Vs.

G.Thirumal

.. Respondent / Respondent
Respondent / Plaintiff

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., against the order, dated 10.01.2011, passed in I.A.No.82 of 2010 in unnumbered A.S.No.nil of 2010 by the Subordinate Court, Palani.

For petitioner : Mr.S.Anand Chandrasekar,
for M/s.Sarvabhuman Associates

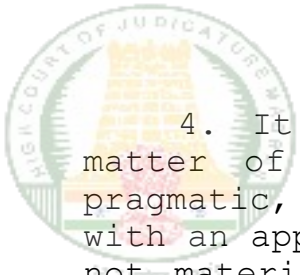
For respondent : Mr.A,Veerasamy

ORDER

This petition has been filed by the petitioner/defendant as against the order, dated 10.01.2011, passed in I.A.No.82 of 2010 in A.S.No.nil of 2010, whereby and whereunder the first appellate Court dismissed the petition filed by the petitioner/defendant seeking condonation of delay of 216 days in filing appeal suit.

2. It is seen that the respondent / plaintiff had filed a suit in O.S.No.280 of 2001 against the petitioner / defendant for recovery of money. After trial, the trial Court decreed the suit in favour of the respondent/plaintiff. Aggrieved by that order, the petitioner/ defendant presented an appeal. For filing the said appeal, there occurred a delay of 216 days. In order to condone the delay of 216 days, the petitioner/defendant filed I.A.No.82 of 2009. The first appellate Court dismissed the said petition holding that the reason assigned by the petitioner/defendant is not acceptable and the petitioner / defendant had dragged on the suit proceedings at various stages. Aggrieved by the same, the petitioner has filed this petition.

3. Heard the learned counsel appearing for both sides and perused the records carefully.



4. It is a settled law that the condonation of delay is a matter of discretion of the Court. There should be a liberal, pragmatic, justice oriented, non-pedantic approach while dealing with an application for condonation of delay. The length of delay is not material and acceptability of explanation is important. Even the delay of long range can be condoned if the explanation is satisfactory.

5. In this case, the reasons assigned by the petitioner/defendant for condoning the delay of 216 days is that since he was engaged in some other cases and he was in ill, he could not file the appeal in time and thus, the delay had occurred. The admission of the petitioner that he was engaged in some other cases during the delay period, would show that he has purposefully left this matter. It is seen that the petitioner/ defendant had dragged on the proceedings before the Court below by absenting himself at various stages. Considering the above, the first appellate Court has dismissed the petition filed by the petitioner/defendant.

6. It is submitted by the learned counsel for the respondent/plaintiff that in this case, when the matter came up for admission on 09.06.2011, this Court had granted interim stay subject to the deposit of 50% of the decretal amount in the execution proceedings. But, till date, he has not deposited any sum. It is further clear that only with the intention to drag on the matter, the petitioner/defendant has filed this petition. In view of the above, this Court is not inclined to interfere with the order passed by the first appellate Court.

7. In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AD-I)

/ True Copy /

Sub Assistant Registrar (CS)

To

1. The Subordinate Judge, Palani.

2. The Record Keeper, V.R. Section,

Madurai Bench of Madras High Court, Madurai **(2 copies)**.

+1 CC to M/s.A.VEERASAMY, Advocate (SR-59735[F] dated 09/04/2019)

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