

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition (NPD) No.1228 of 2010

1.Getsy Filominal
2.Rezina Tamil Selvi
3.Buela Emimal
4.Abraham Devakumar
5.Joshuva Prem Kumar
6.Imanuvel Rajkumar
7.Prishkilal Prem Kumari

..Petitioners

Vs

Sivasubramanian

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records relating to the order and decreetal order dated 20.09.2007 in I.A.No.870 of 2000 in O.S.No.1406 of 1986 on the file of the Principal District Munsif, Poonamallee and set aside the same and allow the present Civil Revision Petition.

For Petitioners : Mr.AL.Gandhimathi

ORDER

This Civil Revision Petition has been filed to call for the records relating to the order and decreetal order dated 20.09.2007 in

I.A.No.870 of 2000 in O.S.No.1406 of 1986 on the file of the Principal District Munsif, Poonamallee and set aside the same and allow the present Civil Revision Petition.

2. Heard M/s.AL.Gandhimathi, learned counsel for the petitioner.
No representation on behalf of the respondent.

3. This Civil Revision Petition arising out of the order passed in IA.No.870 of 2000 in O.S.No.1406 of 1986 on the file of the Principal District Munsif, Poonamallee. The petitioners have filed a suit against the respondent in O.S.No.1406 of 1986 for declaration and injunction. After filing the written statement and framing the issues, trial also commenced, on the side of the petitioner one witness was examined in chief in part and documents were marked. Subsequently, the witness had not appeared in several adjournments. Since the petitioners did not appear before the trial Court, the suit was dismissed for default. Subsequently, the petitioners filed an application before the trial Court, seeking to restore the suit and there was a delay of 1243 days in filing the petition to restore the suit. The trial Court heard the petitioners and dismissed the said application. Against the same, the petitioner has preferred the present Civil Revision Petition.

4. The learned counsel for the petitioner would submit that during the pendency of the suit, a compromise was arrived at between the parties since the defendant did not respond as promised and he did not appear before the Court and the defendant had suddenly made an application before the Tahsildar, Poonamallee for obtaining patta in respect of suit items 1 to 4 of "B" schedule and then only they came to understand that the suit was dismissed for default. Therefore, the petitioners have moved the application to restore the suit. However, the Court below without considering the factual aspects of the matter, dismissed the application.

5. A careful reading of the entire materials, the trial Court has elaborately discussed the matter and came to the conclusion that there is no sufficient cause to condone the delay since the plaintiffs were under impression that the defendant would report settlement in the Court and the same is untenable as it is the duty of the plaintiffs to report the settlement if any arrived between the parties or otherwise to proceed with the suit. Therefore, since the petitioners have not reported about the settlement of the matter before the Court below and kept quite without proceeding with the suit. This Court does not find any irregularity or infirmity in the order of the Court below. In fact, as far as condoning the delay is concerned, it is purely discretion of the Court

P.VELMURUGAN,J.

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depending upon the bona fide reasons assigned by the parties.
Therefore, unless such discretion is exercised arbitrarily, there is no
scope for this Court to interfere with the same.

6. This Civil Revision Petition is dismissed accordingly. No costs.

17.07.2020

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To

- 1.The Principal District Munsif, Poonamallee
- 2.The Section Officer, V.R. Section, High Court, Madras



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