

C.M.P.No.3171 of 2020
in
C.R.P.No.2816 of 2007

S.VAIDYANATHAN,J.

This Civil Miscellaneous Petition is filed seeking to condone the delay of **3571 days** in filing the Restoration Petition to restore the above Civil Revision Petition, which was dismissed for default on 26.03.2010.

2. The delay in the case on hand is enormous. However, learned counsel appearing for the Respondent submitted that, the delay may be condoned, subject to the condition that, the amount in Execution Petition may be ordered to be deposited and that, the Respondent may be permitted to withdraw 50% of the amount deposited, which shall not be lesser than Rs.4,00,000/-, in toto.

3. The amount of claim in the Execution Petition is nearly a sum of Rs.7,25,000/-. The said claim was made in the year 2018, and two years have gone by. Interest on the said amount would have accrued and now, the claim will be more than Rs.8,00,000/-, approximately.

4. Since the Respondent has shown concession in condoning delay, ***the enormous delay of 3571 days in filing the Restoration Petition to restore the above Civil Revision Petition is condoned, subject to the condition that, the Petitioner deposits a sum of Rs.5,00,000/- (Rupees Five Lakhs only) on***

the total amount claimed in the Execution Petition (which is approximately Rs.8,00,000/- as on date) before the Lower Court, on or before 08.04.2020.

Out of the amount so deposited, the Respondent is permitted to withdraw a sum of **Rs.4,00,000/- (Rupees Four Lakhs only)**, and the said amount shall be realized to the Respondent within **ten working days from the date of deposit.**

5. *In case of non-compliance of this order, the Civil Revision Petition will stand dismissed, more particularly, in the light of the Division Bench decision of this Court rendered in C.M.P.Nos.21784 and 21785 of 2017, by an order dated 15.02.2018. The said Petitions, which were filed to condone the delay of 765 days in preferring the Appeal, stood dismissed by an order dated 15.02.2018, wherein, it was held that, if the delay in question is not either properly or satisfactorily and convincingly explained, the Court of Law cannot condone the delay on sympathetic ground alone, as per decision of Hon'ble supreme Court **Brijesh Kumar V. State of Haryana (AIR 2014 SCC 1612).***

6. Learned counsel for the Petitioner shall furnish a copy of the Affidavit and Typed Set of Papers to the learned counsel appearing for the Respondent herein, to enable him address arguments in the Civil Revision Petition.

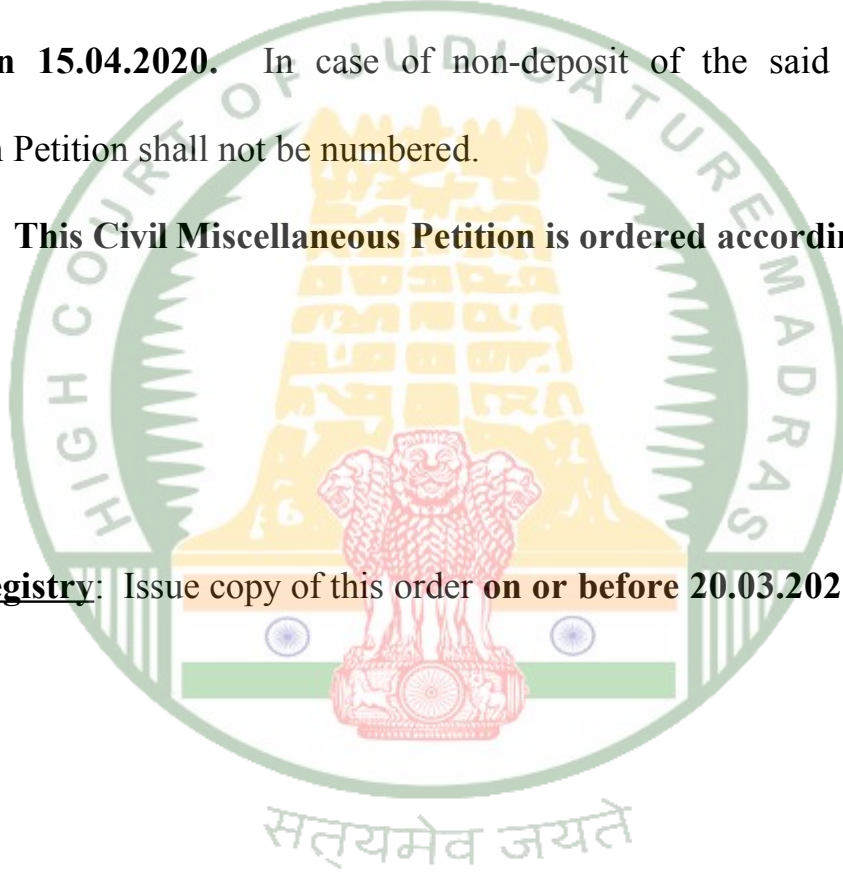
7. **Registry is directed to number the Restoration Petition**, on production of requisite document to the effect that a sum of Rs.5,00,000/- has been deposited before the Court below, **and list the Restoration Petition for hearing on 15.04.2020.** In case of non-deposit of the said amount, the Restoration Petition shall not be numbered.

8. **This Civil Miscellaneous Petition is ordered accordingly.**

13.03.2020

rst/aeb

Note to Registry: Issue copy of this order **on or before 20.03.2020.**



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