

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 17.08.2020

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

**C.R.P (PD).No.3298 of 2012
and M.P.No.1 of 2012**

S.Palanivel

...

Petitioner

...Vs...

1. A.Nazeer Ahammad
2. United India Insurance Co. Ltd
Branch No.2
Oriental complex
77, Arunachalam asari Street,
Salem-1.

...

Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 10.06.2010 made in I.A.No.188 of 2010 in M.C.O.P.No.98 of 2004 on the file of Additional District Judge (FTC I), Salem.

For Petitioner : Mr.K.S.Karthik Raja

For Respondents : No appearance

ORDER

This Civil Revision Petition has been filed against the order dated 10.06.2010 made in I.A.No.188 of 2010 in M.C.O.P.No.98 of

2004 on the file of Additional District Judge (FTC I), Salem.

2. The petitioner filed a petition in M.C.O.P.No.98 of 2004 on the file of Motor Accident Claims Tribunal, Salem. The said petition was dismissed for default on 06.02.2007. Therefore, filed petition to restore the order, in which there was delay of 798 days in filing the restoration application. Therefore, he filed application in I.A.No.188 of 2010 under Section 5 of the limitation Act to condone the delay of 778 days in filing the petition to restore the order passed in M.C.O.P.No.98/2008 and that petition was dismissed vide order dated 10.06.2010. Challenging the same, the petitioner is before this Court.

2. Heard the learned counsel for the petitioner. Despite notice being served on the second respondent there is no representation on his behalf and the notice in respect of the first respondent was returned as "not claimed". सत्यमेव जयते

3. Though the learned counsel for the petitioner would submit that due to jaundice, the petitioner was unable to appear before the Court on the date of dismissal order. But the trial Court failed to consider the reasons given by the petitioner and dismissed the application filed by the petitioner without giving opportunity to him

to prove his case.

4. Heard the learned counsel for the petitioner. Perused the materials on record.

5. Though it is stated by the petitioner that he was working as Sub Inspector of Police, Annathanapatti, Salem town and he has not attended the Court because of his illness and for his long absence medical treatment has also been taken, there is no evidence produced before the trial Court to that effect. Further, even medical certificate has not been produced. Even though the length of delay is not a matter for condonation of delay, proper reasons has to be assigned. In this case, reasons assigned by the petitioner is not satisfied and proved in the manner known to law. Hence, the Court below has rightly dismissed the application filed by the petitioner for condoning the delay of 778 days in filing the restoration application. Therefore, this Court finds that there is no perversity in the order passed by the trial Court.

In view of the same, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

17.08.2020

Index : Yes/No
Internet : Yes/No
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P. VELMURUGAN, J.

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To

- 1. The Additional District Judge (FTC I), Salem**
- 2. The V.R.Section, High Court, Chennai.**



C.R.P.(PD) No.3298 of 2012

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