



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:15.09.2020

CORAM:

THE HONOURABLE **MR.JUSTICE P.RAJAMANICKAM**

CRP. (MD) .No.1065 of 2014 (NPD)

and

M.P. (MD) .No.1 of 2014

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Shanthi

...Petitioner/Petitioner/Appellant

Vs.

The Executive Officer,
Arulmigu Yegaanthalinga Swamy Thirukovil,
Azhvaarthriunagari,
Srivaikundam Taluk,
Thoothukudi District.

...Respondent/Respondent/Respondent

PRAYER: This Petition filed under 115 of Civil procedure Code to allow the Civil Revision Petition by setting aside the order passed in I.A.No.84 of 2013 in un-Registered A.S.No....of 2013, dated 10.01.2014, on the file of the Sub Court, Thoothukudi.

For Petitioner	: Mr.R.T.Arivukumar
	for M/s.Meenakshi Sundaram
For Respondent	: Mr.M.Muthugeethayan

O R D E R

This Civil Revision petition has been filed by the petitioner / appellant against the dismissal of her application in I.A.No.84 of 2013 in un-Registered A.S.No. Nil of 2013, dated 10.01.2014, on the file of the Sub Court, Thoothukudi.

2. The petitioner herein has filed a suit in O.S.No.162 of 2008, on the file of the learned District Munsif, Srivaikundam, against the respondent herein, seeking for the relief of permanent injunction and to restrain the respondent herein from interfering with her peaceful possession and enjoyment of the suit property. The learned District Munsif, Srivaikundam, by the judgment dated 11.03.2010, has dismissed the said suit with costs. Feeling aggrieved, the petitioner / plaintiff has filed an Appeal before the learned Sub Judge, Thoothukudi, with an application in I.A.No.84 of 2013, under Section 5 of the Limitation Act, to condone the delay of 1004 days, in filing the appeal. The learned Sub Judge, by the order dated 10.01.2014, has dismissed the said application without costs. Feeling aggrieved, the petitioner / plaintiff / appellant has filed the present Civil Revision Petition.

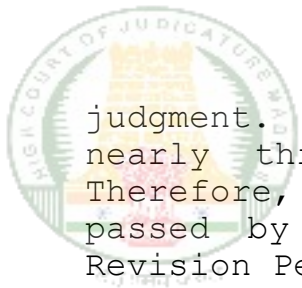
3. Heard Mr.R.T.Arivukumar, for Mr.S.Meenakshi Sundaram, learned counsel appearing for the petitioner and Mr.M.Muthugeethayan, learned counsel, appearing for the respondent.



4. The learned counsel appearing for the petitioner has submitted that the petitioner is a poor illeterate woman. He further submitted that the suit property is a small house site, measuring to an extent of 3049.2 square feet, for which, the Government has issued a patta in the year 1993, in favour of the petitioner's husband and from that day onwards, the petitioner and her husband have been in possession and enjoyment of the same. He further submitted that the respondent is a Temple Authority and the said Temple Authority has suddenly claimed right over the suit property and tried to dispossess the petitioner and hence, she was constrained to file a suit in O.S.No.162 of 2008, before the learned District Munsif, Srivaikundam, praying for permanent injunction. He further submitted that the learned District Munsif without taking into consideration the patta, which was issued in favour of the petitioner's husband by the Government, has erroneously dismissed the petitioner's suit. He further submitted that, she is having a chance of success in the appeal and she was advised to file appeal, but, she met with an accident and hence, she could not contact her counsel and instructed him to file appeal immediately. Hence, she filed the appeal along with the petition under Section 5 of the Limitation Act to condone the delay of 1004 days. He further submitted that the petitioner also has produced medical records to show that she met with an accident, but the lower Appellate Court has erroneously dismissed the said petition and therefore, he prayed to allow the Civil Revision Petition and set aside the order passed by the learned Sub Judge, Thoothukudi, in I.A.No.84 of 2013 and give an opportunity to the petitioner to take a chance before the Appellate Court.

5. Per contra, the learned counsel appearing for the respondent has submitted that the petitioner has not given any valid reason to condone the inordinate delay of 1004 days for filing the appeal. He further submitted that the Appellate Court taking into consideration, the medical records produced by the petitioner are related to the period prior to the judgment of the trial Court. which relates to the pre-judgment period, but, she has not produced any medical records to show that she was not doing well, even after passing of the judgment by the trial Court, has rightly dismissed the said petition and the said order does not require any interference by this Court and therefore, he prayed to dismiss this petition.

6. In the affidavit filed by the petitioner in support of her petition in I.A.No.84 of 2013, before the learned Sub Judge, Thoothukudi, she has simply stated that she met with an accident and hence, she could not contact her counsel. A perusal of the order passed by the learned Sub Judge shows that the medical records, which were produced by the petitioner, are relating to the Pre-judgment period. But she has not produced any medical evidence to show that she was unwell even after passing of the trial Court's



judgment. The petitioner has not explained the inordinate delay of nearly three years for not taking steps for filing appeal. Therefore, this Court does not find any infirmity in the order passed by the Lower Appellate Court. Accordingly, this Civil Revision Petition is liable to be dismissed.

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

Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

tsg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

The Sub Court, Thoothukudi.

+1 CC to Mr.M.MUTHUGEETHAYAN, Advocate (SR-17035[F] dated 16/09/2020)

Order made in
CRP. (MD) .No.1065 of 2014(NPD)
15.09.2020

VB (05.10.2020) 3P 3C