



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.11.2020

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

C.R.P(PD) (MD)No.1686 of 2014

and

M.P(MD)No.1 of 2014

Kathiresan ... Revision Petitioner/Petitioner/1st respondent

Vs.

Mary Selvarani

... Respondent / Respondent / Petitioner

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 26.12.2013 in I.A.No.304 of 2012 in M.C.O.P.No.72 of 2002 on the file of the Court of I Additional District Judge (PCR), Tiruchirappalli.

For Petitioner : Mr.P.Ganapathi Subramanian

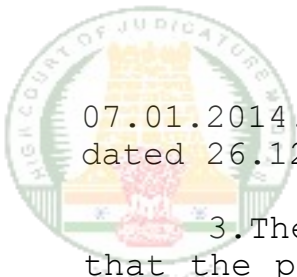
For Respondent : Mr.P.Murugesan

O R D E R

This Civil Revision Petition is filed against the fair and decreetal order dated 26.12.2013 passed in I.A.No.304 of 2012 in M.C.O.P.No.72 of 2002 by the I Additional District Judge (PCR), Tiruchirappalli.

2. The brief facts of the case are as follows:

The respondent herein filed a claim petition against the petitioner and one Dasarathan in M.C.O.P.No.72 of 2002 on the file of the I Additional District Judge (PCR), Tiruchirappalli, seeking compensation for the injuries sustained by her in a motor accident occurred on 13.06.2001. In the said M.C.O.P., an ex-parte award was passed against the petitioner on 17.02.2012 for a sum of Rs.50,000/-. Aggrieved over the same, the petitioner filed I.A.No.304 of 2012, to condone the delay of 2143 days in filing the petition to set aside the ex-parte award. The said petition was allowed on condition to deposit the entire award amount on or before 06.01.2014, vide order dated 26.12.2013. Since the said conditional order was not complied with, the delay petition was dismissed on



07.01.2014. But, this Civil Revision Petition is against the order dated 26.12.2013.

3. The learned counsel appearing for the petitioner submitted that the petitioner was not able to appear before the Tribunal only due to his health problem and he further submitted that the petitioner's vehicle did not involve in the accident and therefore, he is not liable to pay compensation to the respondent and he is having a good case and therefore, order passed by the Court below needs to be interfered with.

4. This Court heard the submissions made by the learned counsel appearing for petitioner and the learned counsel appearing for the respondent and also perused the materials placed before this Court.

5. The M.C.O.P., is of the year 2002 and the petitioner has chosen to file a petition to set aside the ex-parte decree, with a delay of 2143 days. In the delay condonation affidavit, the petitioner has not explained the reason for such inordinate delay. When such being the position, there is no other option left with the Court except to dismiss the application. The Honourable Supreme Court in **R.B.Ramlingam v. R.B.Bhuvaneswari** reported in **2009(2) SCALE 108**, has considered the delay of 568 days in filing the Special Leave Petition and observed as follows:

"3. ... Reading the said judgment, it also becomes clear that filing of Review Petition is no impediment to the filing of the special leave petition. Large number of judgments were cited before us by learned counsel. It is not necessary at this stage to discuss each and every judgment cited before us for the simple reason that Section 5 of the Limitation Act, 1963 does not lay down any standard or objective test. The test of "sufficient cause" is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of Limitation has left the concept of "sufficient cause" delightfully undefined, thereby leaving to the Court a well-intentioned discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such.

4. For the aforesaid reasons, we hold that in each and every case the Court has to examine whether delay in filing the special leave petition stands properly explained. This is the basic test which needs to be applied. The true guide is whether the petitioner



has acted with reasonable diligence in the prosecution of his appeal/petition."

6. In ***Oriental Aroma Chemical Industries Ltd. v. Gujarat Industrial Development Corporation*** reported in (2010) 5 ***Supreme Court Cases*** 459, the Honourable Supreme Court considered the inordinate delay on the part of the State Corporation in filing the appeal and observed as follows:

"14. We have considered the respective submissions. The law of limitation is founded on public policy. The legislature does not prescribe limitation with the object of destroying the rights of the parties but to ensure that they do not resort to dilatory tactics and seek remedy without delay. The idea is that every legal remedy must be kept alive for a period fixed by the legislature. To put it differently, the law of limitation prescribes a period within which legal remedy can be availed for redress of the legal injury. At the same time, the courts are bestowed with the power to condone the delay, if sufficient cause is shown for not availing the remedy within the stipulated time.

15. The expression "sufficient cause" employed in Section 5 of the Limitation Act, 1963 and similar other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which subserves the ends of justice. Although, no hard-and-fast rule can be laid down in dealing with the applications for condonation of delay, this Court has justifiably advocated adoption of a liberal approach in condoning the delay of short duration and a stricter approach where the delay is inordinate—*Collector (L.A.) v. Katiji* [(1987) 2 SCC 107 : AIR 1987 SC 1353], *N. Balakrishnan v. M. Krishnamurthy* [(1998) 7 SCC 123 : JT (1998) 6 SC 242] and *Vedabai v. Shantaram Baburao Patil* [(2001) 9 SCC 106]."

7. Though the expression "sufficient cause" should receive a liberal consideration, each case is to be decided on the facts and this Court is of the view that in the absence of proper and sufficient reasons, the delay of 2143 days in filing the petition to set aside the ex-parte decree, cannot be condoned. But, the lower Court granted conditional order, in the interest of justice and on the failure of the petitioner herein to comply with the condition, the delay petition came to be dismissed on 07.01.2014.

8. In view of the above, the fair and decreetal order dated 26.12.2013 passed in I.A.No.304 of 2012 in M.C.O.P.No.72 of 2002 by the I Additional District Judge (PCR), Tiruchirappalli,, is

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confirmed and this Civil Revision Petition stands dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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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 I Additional District Judge (PCR),
Tiruchirappalli.

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Madurai Bench of Madras High Court, Madurai.(2 Copies)

C.R.P (MD)No.1686 of 2014 (PD)

20.11.2020

VR (CO)

NR (03/12/2020) 4P : 4C