



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P.(NPD) (MD)No.1711 of 2015

WEB COPY

V.P.Rajula

: Petitioner/Petitioner/Plaintiff

..Vs..

K.J.Sakadeva Raja

: Respondent/Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the fair and final order in I.A.No.1065 of 2014 in O.S.No.482 of 2004, dated 08.04.2015 on the file of the Additional District Munsif Court, Srivilliputhur.

For Petitioner : Mr.A.Sivaji

For Respondent : Mr.M.P.Senthil

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ORDER

This Civil Revision Petition is filed by the plaintiff in the suit in O.S.No.482 of 2004, on the file of the Additional District Munsif Court, Srivilliputhur, as against the order dismissing the petition to condone the delay of 1824 days in re-presenting the petition filed by the revision petitioner under Order IX Rule 9 CPC.

2.The revision petitioner filed a suit in O.S.No.482 of 2004 on the file of the Subordinate Court, Srivilliputhur for recovery of a sum of Rs.68,692/- and for costs. The suit was dismissed for default and hence, the petitioner filed an application for restoration of suit under Order IX Rule 9 CPC. It appears that the petition presented by the revision petitioner was returned for certain defects and there is a delay of 1824 days in re-presenting the petition to restore the suit. Hence, the revision petitioner filed a petition to condone the delay of 1824 days in re-presenting petition to restore the suit. However, the trial Court dismissed said petition only on the ground that the petitioner has not given sufficient reasons for the delay. Aggrieved by the same, the present Civil Revision Petition is filed.

3.This Court considered the facts and circumstances of the case and found that the petitioner deserves an indulgence by way of an opportunity to prosecute the suit. The suit is for recovery of



money and the delay in re-representation was stated to be on account of misplacement of papers in the Advocate's Office. Though the explanation offered by the revision petitioner is common and this kind of explanation is found in almost every case, where, the delay is only in re-representation, the petitioner's explanation cannot be ignored unless there are strong reasons to doubt the *bona fides*. Even though the delay is beyond 1800 days, the petitioner's excuse involving his Advocate has to be considered keeping in mind broad principles. This Court does not find any reason to disbelieve the case of petitioner.

4.Having regard to the facts and circumstances of the case, this Court is inclined to allow this Civil Revision Petition. Accordingly, this Civil Revision Petition is allowed and the order passed by the learned Additional District Munsif, Srivilliputhur, in I.A.No.1065 of 2014 in O.S.No.482 of 2004, dated 08.04.2015 is set aside and the petition in I.A.No.1065 of 2014 in O.S.No.482 of 2004 stands allowed on condition that the petitioner pay a sum of Rs.2,000/- to the Counsel for the respondent or respondent within a period of eight weeks from the date of receipt of a copy of this order. Similarly, in case, the revision petitioner succeeds in getting a decree for recovery of money against the respondent, the petitioner is not entitled to claim any interest for the aforesaid period of 1824 days.

Sd/-

Assistant Registrar

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Sub Assistant Registrar(CS)

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To

The Additional District Munsif, Srivilliputhur.

+1 CC to Mr.M.P.SENTHIL, Advocate (SR-14132[F] dated 14/08/2020)
+1 CC to Mr.A.SIVAJI, Advocate (SR-14348[F] dated 18/08/2020)

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