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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.CHANDRASEKHARAN

C.R.P. No.132 of 2019  
and C.M.P.No.1171 of 2019

(Through Video Conference)

D.Singaraj

...Petitioner/Petitioner/  
Appellant/Defendant

Versus

K. Marimuthu

...Respondent/Respondent/  
Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and final order dated 19.09.2018 made in I.A.No.15 of 2015 in A.S.CFR No.26316 of 2014, on the file of Principal Subordinate Judge, Coimbatore, against the Judgment and decree dated 05.10.2012 made in O.S.No.1636 of 2008 on the file of I Additional District Munsif, Coimbatore.

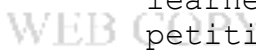
For Petitioner : Mr.P.Saravana Sowmiyan

For Respondent : Mr.K.C.Karlmarx

O R D E R

This Civil Revision Petition is filed to set aside the order passed in I.A.No.15 of 2015 in A.S.CFR.No.26316 of 2014 on the file of the Principal Subordinate Judge, Coimbatore.

2. The respondent /plaintiff filed a suit in O.S.No.1636 of 2008 claiming a sum of Rs.51,256/- and subsequent interest of Rs.30,000/- at the rate of 24% per annum from the date of the suit till the date of realization of the decree amount. The suit was based on the basis of Promissory Note executed by the petitioner in favour of the respondent on 15.08.2005. The suit was contested by the petitioner claiming that the suit Promissory Note is a forged promissory note and he has not borrowed any amount and the signature found in the Promissory Note, is a forged signature. During the trial, the petitioner and the respondent were examined and Exh.A1 to A4 were marked on



3. On considering the oral and documentary evidence, the learned trial Judge decreed the suit. Against the said suit, the petitioner preferred an appeal in A.S.CFR.No.26316 of 2014. It is the case of the petitioner that there is a delay of 622 days in filing of the appeal. The reasons for the delay is that he was suffering from Semi Amnesia from 02.10.2012 and therefore, he was taking treatment through Ayurvedhic, Siddha and Herbal medications. He was not aware of the judgment and only on 17.10.2014, he came to know about the judgment. Therefore, there is a delay of 622 days in filing the Appeal. He filed I.A.No.15 of 2015 for condoning the delay in filing the Appeal. However, the learned Appellate Judge dismissed the petition. Against the said order of dismissal, the present Civil Revision Petition is filed.

5. The perusal of the affidavit and records, especially, the petition filed along with the I.A. shows that the petitioner had shown five documents and medical records as the list of documents in support of the petition. However, it seems that he has not chosen to mark these documents and prove by examining himself or the concerned witnesses to support his case of illness. The learned trial Judge also found that the delay on medical grounds, without any supporting material, cannot be accepted and in that view of the matter, dismissed the petition. There is some reference made in the order with regard to the medical records. The trial Court found that some of the medical records are previous to the date of decree and some other reports are self serving. If really the petitioner was suffering from illness and that prevented him from filing the Appeal in time, he should have examined himself by producing relevant medical records to show that he was not really well after pronouncement of judgment and that caused the delay in filing the Appeal. That has not been done by the petitioner.

<https://hcservices.ecourts.gov.in/hcservices/>



7. The learned Appellate Judge has considered the materials placed before him and has dismissed the petition. This Court finds no reason to interfere with the order passed by the learned Principal Subordinate Judge, Coimbatore and the order is confirmed. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

- 1) The Principal Subordinate Judge,  
Coimbatore.
- 2) The I Additional District Munsif,  
Coimbatore.
- 3) The Section Officer,  
VR Section,  
High Court, Madras.

+1 cc to M/s.Karl Marx, Advocate Sr.No.39875

Order made in  
C.R.P. No.132 of 2019

NR[co]  
NSK 03/09/2021