

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2021

CORAM :

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P (NPD) .No.3666 of 2015

T.M.Madeshwaran

... Petitioner

Versus

K.Valli

... Respondent

Civil Revision Petition filed under section 115 of Civil Procedure Code, to set aside the fair and decretal orders dated 08.07.2015 passed in I.A.No.1185 of 2014 in O.S.No.16 of 2011 on the file of the Additional District Munsif Court, Tiruchengode, by allowing this CRP.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondent : Mr.P.Valliappan

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 08.07.2015 passed in I.A.No.1185 of 2014 in O.S.No.16 of 2011 on the file of the Additional District Munsif Court, Tiruchengode, thereby, the petition filed to condone the delay of 349 days in restoring the suit was dismissed with costs.

2.The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed the suit for bare injunction in respect of the suit property. When the suit was posted for trial, the petitioner failed to appear before the trial, therefore, the petition was dismissed for default on 13.11.2013. Thereafter, the petitioner filed a petition to restore the suit with a petition for condoning the delay of 349 days.

3.On perusal of the affidavit filed in support of the petition for condoning the delay, it appears that the petitioner fell ill during December 2011 and underwent treatment at Narayana Hrudayalaya Hospital, Bangalore. Even thereafter, his speech output was reduced and he could not talk freely. He also lost his memory power and he completely forgot about his case.

The petitioner also stated that he had taken treatment with Dr. Paramasivam in Chellam Hospital at Namakkal. However, the Court below dismissed the petition for condoning the delay on the ground that the petitioner failed to show sufficient cause for the delay of 349 days. Therefore, the petitioner filed the suit for bare injunction, thereafter, he fell ill and as such he could not contact his counsel. The petitioner has to be given one more opportunity to prosecute the case.

4. In view of the same, the order passed by the Court below is hereby set aside and the Civil Revision Petition is allowed on condition, the petitioner shall pay a sum of Rs.5,000/- to the respondent, as costs, within a period of two weeks, from the date of receipt of a copy of this order, failing which, the order of this Court will stand dismissed automatically, without any further reference. After restoring the suit, the Trial Court is directed to dispose of the suit, within a period of five months thereon.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

klr

To

The Additional District Munsif Court, Tiruchengode.

+1 cc to Mr.R.Marudhachalamurthy, Advocate Sr No.18794

+1 cc to Mr.P.Valliappan, Advocate Sr No.18679

C.R.P (NPD).No.3666 of 2015

23.03.2021

JM(CO)

RG.29/04/2021 (2P/4C)

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