

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.3175 of 2016

A.Geetha ... Petitioner/Plaintiff

Vs.

1.Balaraman

2.Sekar ... Respondents/Defendants

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 21.07.2015 passed by the District Munsif-cum-Judicial Magistrate No.I, Walajapet, Vellore District, in I.A.No.161 of 2014 in O.S.No.142 of 2007.

For Petitioner : Mr.T.P.Prabakaran

For Respondents : Mr.S.Mukunth

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed challenging the Order of the District Munsif-cum-Judicial Magistrate No.I, Walajapet, Vellore District, dated 21.07.2015 passed in I.A.No.161 of 2014 in O.S.No.142 of 2007.

2. The petitioner is the plaintiff and the respondents are the defendants in the suit.

3. The suit filed by the petitioner was dismissed for default. In view of that, the petitioner has filed a petition to restore the suit. The petition had been returned for complying certain defects and then to be represented. But there occurred a delay of 1145 days in representing the said petition. So a petition has been filed to condone the delay in representation and the same was dismissed vide the impugned order dated 21.07.2015. In the said order, the learned trial Judge has observed the dilating conduct of the petitioner in making the inordinate delay in representing the petition filed to restore the suit.

4. The learned counsel for the petitioner submitted that those contentious issues can be taken up for consideration by the learned trial Judge while dealing with the petition to restore the suit after allowing him to represent the petition.

5. The learned counsel for the respondents submitted that the petitioner did not have any acceptable reasons for the delay to be condoned and the matter should be viewed seriously and the Civil Revision Petition should be dismissed.

6. The petitioner has stated that because of some family issue she left her matrimonial home and in view of that she could not give instructions to her counsel. But in matters of representation, the responsibility to represent the petition in time, rests more on shoulders of the counsel than on the party. Because of the technical issues for which the petitions are usually returned, the compliance can be made by the counsels themselves. It might be true that the petitioner had exhibited a dilatory attitude. But those matters can still be dealt by the learned trial Judge while dealing with the petition to restore the suit. Since the relief now sought is for the limited scope of allowing the petitioner to represent the petition, I feel that this petition can be allowed.

In the result, the Civil Revision Petition is allowed and the Order dated 21.07.2015 of the District Munsif-cum-Judicial Magistrate No.I, Walajapet, Vellore District, passed in I.A.No.161 of 2014 in O.S.No.142 of 2007 is set aside. However, taking into consideration of the long pendency of the matter, the learned trial Judge is directed to dispose of the petition to restore the suit within a period of four weeks from the date of receipt of a copy of this Order, in the event of the said petition is taken on file if it is found to be otherwise in order. No costs.

22.07.2021

Index: Yes/No

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R.N.MANJULA,J.

Sni

To

- 1.The District Munsif-cum-Judicial Magistrate No.I,
Walajapet,
Vellore District
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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