

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.07.2021

CORAM

THE HON'BLE Mr. JUSTICE G.K.ILANTHIRAIYAN

C.R.P. (PD) No. 2818 of 2018

Kanagalakshmi

Petitioner

Vs

1. Kaliyamoorthi @ Kaliyaperumal

2. Ramamoorthi

Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 14.03.2018 made in I.A.No.190 of 2013 in unnumbered Suit/2013 on the file of the Principal District Munsif (Rent Controller), Karaikal.

For Petitioner

: Mr. S.Sounthar

For R1

: Mr.S.L.Sudarsanam

For R2

: No appearance

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 14.03.2018 made in I.A.No.190 of 2013 in unnumbered Suit/2013 on the file of the Principal District Munsif (Rent Controller), Karaikal, thereby dismissing the petition to condone the delay in re-presentation of the suit.

2. The revision petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit to cancel the sale deed dated 12.10.2001 stood in favour of the second defendant vide document No.1590 of 2001. The plaint was presented on 04.01.2010, it was returned for want of some corrections. Thereafter, it was re-presented with a delay of 304 days.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that after return of the plaint, the counsel had re-presented the same and which was posted for clarification on 21.02.2011. On that day, the earlier counsel did not appear and again it was returned by fixing the time for re-representation as two weeks. Therefore, the petitioner has got back the entire bundle from the earlier counsel and engaged a new counsel to pursue the suit. As such, the delay of 304 days in filing the petition in re-representation of the plaint.

4. However, the Court below dismissed the petition to condone the delay in re-representation of the suit, for the reason that the delay is not properly explained by the petitioner and each and every day delay has to be explained.

5. The suit is filed to cancel the sale deed and as such, the petitioner may be given one more opportunity to pursue the suit. Any prejudice caused to the respondent should be compensated by cost.

6. In view of the above, the order 14.03.2018 made in I.A.No.190 of 2013 in unnumbered Suit/2013 on the file of the Principal District Munsif (Rent Controller), Karaikal, is hereby set aside on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five thousand only) as cost to the first respondent herein within a period of two weeks from the date of receipt of a copy of this order, failing which the order shall stand automatically cancelled without further reference to this Court and on such payment, the trial Court is directed to number the suit if it is otherwise in order and proceed with the suit.

7. With the above directions, this Civil Revision Petition stands allowed. No costs.

27.07.2021

Lpp
Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

G.K.ILANTHIRAIYAN.J,

Lpp

To
The Principal District Munsif (Rent Controller),
Karaikal



C.R.P.(PD) No.2818 of 2018

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