

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.1513 of 2017

and

CMP.No.7042 of 2017

W.R.Shanmugam

... Petitioner

Vs.

Hindu Religious and Charitable Endowment
Rep. by its Executive Officer,
Arulmigu Gangadeeswarar Temple,
Gangadeeswarar Koil Street, Pursawalkam,
Chennai – 84.

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the order and decretal order dated 07.02.2017 passed in C.M.P.No.1156 of 2016 in A.S.SR.No.40053 of 2016 on the file of the learned Principal Judge, City Civil Court, Chennai and allow the above Civil Revision Petition.

For Petitioner

: Mr.V.V.Sairam

For Respondent

: Mr.S.Rajendra Kumar for

: M/s.Norton & Grant

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in C.M.P.No.1156 of 2016 in A.S.SR.No.40053 of 2016 dated 07.02.2017 on the file of the learned Principal Judge, City Civil Court, Chennai, thereby, dismissing the petition to condone the delay in filing the Appeal Suit.

2. The petitioner is the defendant in the suit filed by the respondent/plaintiff for recovery of possession of the suit property and for past and future damages. The petitioner duly contested and the suit was decreed in favour of the respondent. Aggrieved by the same, the petitioner preferred an appeal suit with a delay of 1,936 days in filing the Appeal Suit.

3. On a perusal of the affidavit filed in support of the condone delay petition, it is seen that the petitioner is aged about 90 years in the year 2016. He is living separately and no one is there to help him. When he was served with notice in the execution proceedings, he contacted his counsel and obtained the entire bundle and there was change of Vakalat. Thereafter, he engaged a new counsel and instructed to file an Appeal Suit. Therefore,

there was a delay of 1,936 days in filing the Appeal Suit.

4. The learned counsel for the petitioner submitted that only ambition of the petitioner is to proceed with the Appeal Suit and to contest the Appeal Suit during his life time. Since he is aged now about 95 years, he may be permitted to contest the Appeal Suit atleast during his fag end of his life.

5. Considering the above, this Civil Revision Petition is allowed and the order passed in C.M.P.No.1156 of 2016 in A.S.SR.No.40053 of 2016 is set aside on condition that the petitioner shall pay a sum of Rs.5,000/- to the respondent/plaintiff within a period of two weeks from the date of receipt of a copy of this order, failing which this order shall stand automatically cancelled. Thereafter, the first Appellate Court is directed to number the Appeal Suit and dispose of the same within a period of three months thereafter. Consequently, the connected Miscellaneous Petition is closed.

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25.02.2021

Speaking/Non-speaking order

Index : Yes/No

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G.K.ILANTHIRAIYAN,J.

Kv

To

1. The Executive Officer,
Hindu Religious and Charitable Endowment
Arulmigu Gangadeeswarar Temple,
Gangadeeswarar Koil Street, Pursawalkam,
Chennai – 84.
2. The Principal Judge, City Civil Court, Chennai.



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