

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.03.2021

CORAM

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

**C.R.P.(NPD) No.3451 of 2017
and CMP.No. 16030 of 2017**

K.Sannasi

...

Petitioner

Vs

1.Selvakumar

2.Chinnadurai

...

Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the order dated 24.02.2017 passed in I.A.No.751 of 2016 in O.S.No.289 of 2010 on the file of District Munsif, Attur.

For Petitioner : Mr.P.Jagadeesan

For Respondents : No appearance

ORDER

The Civil Revision Petition is directed against the fair and decreetal order dated 24.02.2017 made in I.A.No.751 of 2016 in

O.S.No.289 of 2010 on the file of the District Munsif Court, Attur, thereby allowing the petition to condone the delay of 885 days in filing an application to restore the suit.

2. The petitioner is the defendant and the respondents are the plaintiffs. The respondents filed a suit for bare injunction in respect of the suit property. Pending suit, the counsel for the respondent did not inform the stage of the suit and as such, the respondents has failed to appear before the Trial Court and the suit was ripe for trial. Therefore, the Trial Court dismissed the suit on 17.08.2013 for default. Thereafter, the respondents filed a petition to restore the suit with a delay of 885 days. The petitioner filed a counter stating that after dismissal of the suit, in which, the respondents approached this Court to change the patta in the suit property in his name, filed a Writ Petition in W.P.No.24317 of 2016 before this Court and the same was ordered on 18.07.2016. As directed by this Court, the Tahsildar also passed an order on 15.11.2016. Therefore, the respondents had knowledge about the dismissal of the suit.

3. On perusal of the affidavit filed in support of the condone delay petition, it appears that the reason for delay is that the counsel did not inform about the hearing date of the suit and therefore he has failed to appear before the Trial Court. Therefore, the reasons stated in the affidavit in support of condone delay petition is genuine and sufficient. Hence, this Court finds no illegality or infirmity in the order passed by the Trial Court. Hence, this Civil Revision Petition is dismissed. However, the respondents shall pay another sum of Rs.3,000/- as cost to the petitioner herein, directly, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently connected Miscellaneous Petition is closed.

18.03.2021

lpp

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1. The District Munsif,
Attur.

G.K.ILANTHIRAIYAN.J,

lpp

2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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