

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

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

C.R.P.(NPD) No.3997 of 2018 and
CMP.No.22145 of 2018

S.Selvaraj

...

Petitioner

Vs

1.Arulmigu Sri Selva Vinayagar
and Sri Krishnakoorathalvar
Temple, rep by its Fit Person,
Alwarpettai Street, Alwarpet,
Chennai 600 018

2. A.Shankar

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Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of CPC to aside the order dated 12.10.2018 passed in CMP.No.892 of 2018 in AS.SR.No.45488 of 2018 against OS.No.2888 of 2010 on the file of the learned Principal Judge, City Civil Court, Chennai.

For Petitioner : Mr.S.Sureshkumar

For Respondents

R1 : Mr.V.Guhan
for Mr.S.D.Ramalingam
R2 : No appearance

ORDER

This Civil Revision Petition is filed against the order dated 12.10.2018 passed in CMP.No.892 of 2018 in AS.SR.No.45488 of 2018 in OS.No.2888 of 2010 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 first defendant and the first respondent is the plaintiff. The first respondent filed suit for delivery of possession with damages. The suit was decreed and aggrieved by the same, the petitioner preferred appeal suit with the delay of 1174 days. The appellate court ordered notice to the respondents. The first respondent on receipt of summons, failed to appear before the appellate court and as such he was set exparte and the suit was decreed. Insofar as the second respondent is concerned, who is none other than the second defendant in the suit filed by the first respondent. Therefore, the petitioner filed memo praying to dispense with the second respondent from issuance of notice. While rejecting the said memo, the court below dismissed the condone delay petition also, without hearing the petitioner.

3. Considering the above, this civil revision petition is allowed and the order dated 12.10.2018 passed in CMP.No.892 of 2018 in AS.SR.No.45488 of 2018 in OS.No.2888 of 2010 on the file of the learned Principal Judge, City Civil Court, Chennai is set aside. The petition in CMP.No.892 of 2018 is remanded back to appellate court for fresh consideration on merits and in accordance with law. The appellate court is directed to dispose of the condone delay petition within a period of four weeks from the date of receipt of copy of this order. Consequently, connected miscellaneous petition is closed. No order as to costs.

13.07.2021

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The Principal Judge,
City Civil Court, Chennai



C.R.P.(NPD) No.3997 of 2018

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