



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Civil Appellate Jurisdiction

Wednesday, the Thirty First day of March Two Thousand and Twenty One

PRESENT

WEB COPY

The Hon`ble Mrs.Justice J.NISHA BANU

CMP(MD) . No.2394 of 2021
in CRP(MD).1211 of 2019

Raju
S/o.Chinnasamy Nethaji Nagar Thanakkankulam
Village and Post Madurai South Taluk
Madurai-626 006

... Petitioner / Petitioner

Vs

1 N.Ramdoss
S/o.Narayanasamy Door No.186 Harverypatti
Madurai 625 005

2 Manjula Ramadoss
W/o.Ramamoss Door No.186 Harveypatti
Madurai 625 005

... Respondents / Respondents

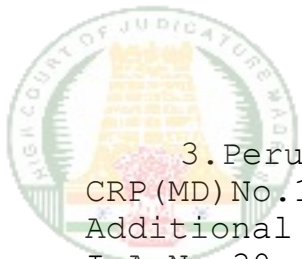
Prayer :-

This Civil Miscellaneous Petition filed under Order 9 Rule 9 r/w Section 151 of CPC setting aside the order dated 16.9.2020 passed in CRP(MD).No.1211 of 2019 and to restore the Civil Revision Petition.

ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.J.Barathan, Advocate for the Petitioner and of Mr.C.Sundaravadivel, Advocate for the respondents, this Court made the following order:

This petition has been filed to restore the above revision petition which was dismissed for non prosecution on 16.09.2020.

2.The above revision petition has been filed by the petitioner/plaintiff against the order allowing the petition in I.A.No.32 of 2019 to condone the delay of 2158 days in filing the petition to set aside the exparte decree dated 22.04.2002 passed in O.S.No.228 of 2002 which was later on renumbered as O.S.No.305 of 2017.



3.Perusal of record shows that the petitioner/plaintiff filed CRP(MD)No.1831/2015 against the order passed by the learned II Additional Sub Judge, Madurai, setting aside the exparte decree in I.A.No.30 of 2009 in O.S.No.228 of 2002 renumbered as O.S.No.305 of 2017 dated 22.04.2002 on payment of cost, on the ground that the petition to set aside the exparte decree was filed after a period of six years without filing any condone delay petition. The learned Judge finding that the exparte set aside petition was allowed without filing a petition to condone the delay of six years in filing the petition to set aside the exparte decree, allowed the above CRP and gave liberty to the respondents/defendants to file a petition to condone the delay in filing the petition to set aside the exparte decree and as per the liberty given, the respondents/defendants filed I.A.No.32 of 2019 to condone the delay of 2158 days in filing the petition to set aside the exparte decree passed in O.S.No.305 of 2017 which was allowed. Challenging the same, the revision petitioner/plaintiff has filed the present revision petition and the same has been dismissed for non prosecution on 16.09.2020 and to set aside the same, the present restoration petition in CMP(MD)No.2394 of 2021 has been filed by the petitioner stating that his counsel had informed him that the present CRP might have been adjourned, but through the official website, the petitioner came to know that the CRP was dismissed for default and from August 2019 on every occasion, his counsel was not present and therefore, he entrusted the case to the present counsel and hence would pray for restoration. Considering the reasons stated in the restoration petition, it is allowed.

4.It is brought to the notice of this Court in the meantime, taking advantage of the dismissal of the present CRP for non prosecution, the respondents/defendants came before this Court by filing CRP(MD)No.22 of 2021 for a direction to dispose of I.A.No.30 of 2009 to set aside the exparte order at an early date and this Court by order dated 09.02.2021 has directed the learned Judge to dispose of I.A.No.30 of 2009 within a period of eight weeks. Since the respondents/defendants have got an order in CRP(MD)No.22 of 2021 dated 09.02.2021 for early disposal of I.A.No.30 of 2009, that order shall be kept in abeyance till the disposal of the present revision petition.

7.List this revision petition on 19.04.2021 for final disposal.

Sd/-

Assistant Registrar(CS-)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



To
The Subordinate Judge, Tirumangalam.

Copy to

1. The Section Officer, Judicial Department,
Madurai Bench of Madras High Court, Madurai.

2. The Section Officer, V.R. Section,
Madurai Bench of Madras High Court, Madurai. (2 copies)

+1 CC to Mr. T.R. JEYAPALAM, Advocate SR.No. 15180

ORDER DATED : 31/03/2021

POSTING DATE : 19.04.2021

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O R D E R

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CMP(MD). No.2394 of 2021

IN

CRP(MD) No.1211 of 2019

Giving direction and etc.
as stated within.

KMK(CO)

TR(16.04.2021) 3P 6C