



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.03.2021

CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.1065 of 2020

and

CMP(MD) .No.6880 of 2020

WEB COPY

R.Prabakaran

...Petitioner /Petitioner/Appellant

Vs.

1.Ravi @ Ayyanathevar

2.Kazhuvan @ Pitchai

3. Ravichandran

...Respondents/Respondents/
Respondents

Prayer: Civil Revision Petition filed under Article 115 of Constitution of India, to set aside the Fair and decreetal order made in I.A.No.291 of 2019 in UN A.S.No. of 2019 dated 14.08.2020, on the file of the Principal Subordinate Court, Madurai and allow the above Civil Revision Petition.

For Petitioner : Mr.N.Anandakumar

For Respondents : Mr.M.Shahul Hameed

O R D E R

This Civil Revision Petition is filed to set aside the order dated 14.08.2020, made in I.A.No.291 of 2019 in UN A.S.No. of 2019 dated 14.08.2020, on the file of the Principal Subordinate Court, Madurai.

2. The revision petitioner is the plaintiff in the suit and the respondents herein the are the defendant Nos.1,2 and 4.

3. The facts of the case is that the revision petitioner herein has filed a suit in O.S.No.36 of 2011 against the respondents-defendants for the relief of declaration and permanent injunction on the file of the learned Principal Subordinate Judge, Madurai and the same was dismissed on 14.08.2020. Thereafter, the petitioner-plaintiff preferred an appeal before the Court below and the same was returned twice for certain compliance. Since there occurred delay in representation of rectified appeal papers, the petitioner-plaintiff filed I.A.No.291 of 2019 to condone the delay of 250 days in representing the appeal. The lower Appellate Court without considering the nature of application dismissed the application. Aggrieved over the same, this Civil Revision Petitions has been filed by the petitioner-plaintiff.

4. Heard the learned counsel for the parties and perused the <https://hcservices.ecourts.gov.in/hcservices/>



materials available on record.

5. Perusal of record shows that the suit is of the year 2011. The present civil revision petition has been filed against the order passed in I.A.No.291 of 2019 in unnumbered A.S.No. of 2019 to condone the delay of 250 days in representing the papers in the above appeal. The learned counsel for the petitioner-plaintiff states that the lower court returned the appeal papers twice for certain compliance and since the petitioner-plaintiff could not comply the same in time, the delay had occurred in representing the appeal papers. Hence, the delay was not wilful and would pray to condone the delay. Learned counsel for the respondents-defendants also submitted that he has no objection in condoning the delay.

6. Considering the facts and circumstances of the case and the long delay caused in representing the appeal papers, this Court feels that ends of justice would be met if the delay is condoned on payment of cost of Rs.2,000/- (Two Thousand only) to the respondents herein within a period of two weeks from the date of receipt of a copy of this order. If the petitioner fails to pay the cost to the respondent within two weeks from the date of receipt of the copy of this order, the civil revision petition will stand automatically dismissed. However, if the cost is paid in time, the order passed in I.A.No.291 of 2019 will be set aside and the learned Judge is directed to number the unnumbered A.S.No. of 2019 and dispose of the same on merits and in accordance with law as expeditiously as possible.

7. Accordingly. the civil revision petition is allowed on the above terms. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

To

1. The Principal Subordinate Judge, Madurai.

2.The Record Keeper, (2C)

Vernacular Section,

Madurai Bench of Madras High Court, Madurai.

C.R.P (MD)No.1065 of 2020

03.03.2021

SSS (CO)

KB(29.03.2021) 2P 4C

<https://hcservices.ecourts.gov.in/hcservices/>