



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2021

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.M.P (MD) No.11245 of 2017

in

C.R.P (MD) SR.No.49144 of 2017

Thirumalai kumar

... Petitioner/Petitioner

Vs.

Ramesh

... Respondent/Respondent

Prayer in C.M.P(MD)No.11245 of 2017: This petition is filed under Section 5 of the Limitation Act, to condone the delay of 912 days in filing the above civil revision petition.

Prayer in C.R.P (MD) SR.No.49144 of 2017: This Civil Revision Petition filed under Section 115 of CPC., to set aside fair and decreetal order dated 07.03.2015 passed in I.A.No.418 of 2013 in O.S.No.1 of 2009 on the file of the District Munsif cum Judicial Magistrate Court, Sengottai, Tirunelveli District and allow the present civil revision petition.

For Petitioner : Mr.R.J.Karthick
For Respondent : Mr.F.X.Eugene

ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 912 days in filing the above revision.

2.The learned counsel for the petitioner would submit that an interlocutory application has been filed to set aside the ex-parte order with a delay of 1291 days and the same has been dismissed. Against which, the present civil revision petition filed with a delay of 912 days.

3.As regards the delay, the learned counsel for the petitioner would state that the petitioner's counsel one Mr.A.K.C.Rajan was suffering from ill-health and was taking treatment and died on 20.07.2015 and the same was came to the knowledge of the petitioner only in the Month of April 2017. Thereafter, the petitioner engaged another counsel and obtained certified copies of the entire bundle. Hence, there was 912 days delay occurred in filing the above revision. The above delay occurred which is neither wilful nor wanton and the petitioner corporation has good grounds on merits. Thus, he would pray to condone the delay.



4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.Perusal of the records shows that the interlocutory application itself filed with a delay of 1291 days and the reasons stated in the petition that the petitioner was suffering from jaundice and therefore there was delay in filing the petition to set aside the ex-parte order.

6.It is seen that no acceptable reason has been adduced for condoning the huge delay of 912 days in filing the above Civil Miscellaneous revision. Therefore, this Court is not inclined to condone the delay of 912 days in filing the revision. By applying the principles laid down in the Judgment reported in **Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & others, [2013 (5) CTC 547 (SC) : 2013 (5) LW 20]**, I am not inclined to condone the delay of 912 days in filing the above revision.

7.Accordingly, this petition is dismissed. In view of the order passed in CMP(MD)No.11245 of 2017, the connected C.R.P.(MD) SR.No.49144 of 2017 is rejected at the SR stage itself. No costs.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

GNS

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The District Munsif cum Judicial Magistrate Court, Sengottai, Tirunelveli District.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.(2-copies)

Order made in
C.M.P(MD)No.11245 of 2017 in
C.R.P(MD) SR.No.49144 of 2017
22.02.2021

ES (CO)

SRS (12/03/2021) 2P : 4C

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