



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.01.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P (MD) .No.2135 of 2019

M.Muruganantham

... Petitioner/ Petitioner/Appellant

Vs.

1.Saravanan

2.Mass Advertisers Represented

by his partner M.Muruganatham

...Respondents/Respondents/
Respondents

PRAYER:- This Civil Revision Petition has been filed under Section 115 of C.P.C, against the fair and decreetal order dated 14.10.2019 rendered in I.A.No.2003/2019 in unnumbered A.S.No. /2019 on the file of the Principal District Judge, Madurai.

For petitioner : Mr.R.Murugan

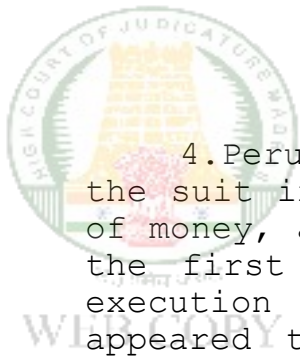
For Respondents : Mr.N.Murugesan

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order dated 14.10.2019 rendered in I.A.No.2003/2019 in unnumbered A.S.No. /2019 on the file of the Principal District Judge, Madurai.

2.The case of the petitioner is that the first respondent has filed the suit in O.S.No.1072 of 2010 before the Principal Sub Court, Madurai for recovery of money as against the petitioner and the said suit was decreed on 18.04.2016. The certified copy of Judgment and decree was made ready on 30.06.2016 and the appeal has to be filed on or before 30.07.2016. On 01.05.2016, the petitioner was suffering from diabetes and he was affected by paralytic attack due to blood pressure. Therefore, the petitioner went to Kerala for malichal treatment and he returned back on the 1st Week of July 2019, due to that, the petitioner was unable to file an appeal within time, for which, there was a delay of 1123 days in filing the appeal. Hence, the petitioner filed an Interlocutory Application in I.A.No.2003 of 2019 before the Principal District Judge, Madurai to condone the delay of 1123 days in filing the Appeal. After hearing the case, the learned Judge has dismissed the said application. Against which, the petitioner has filed the present Civil Revision Petition.

3.Heard the learned counsel for the petitioner as well as the respondents and perused the materials available on record.



4.Perusal of record shows that the first respondent has filed the suit in O.S.No.1072 of 2010 against the petitioner for recovery of money, after hearing the case, the suit was decreed in favour of the first respondent. Thereafter, the first respondent filed an execution petition in E.P.No.627 of 2018 where the petitioner appeared through his counsel on 03.01.2019 before the executing court for execution proceedings and he signed in the Vakalath. Since counter was not filed, order of arrest was passed by the Executing Court on 25.06.2019. Then, the petitioner filed E.A.No.91 of 2019 and the same was allowed with endorsement on 25.07.2019 and the said E.P.No.627 of 2018 is pending for enquiry. The learned Judge has found in the 'B' diary that the petitioner appeared in person on 03.01.2019 before the Executing Court in E.P.No.627 of 2018. Therefore, the averments of the petitioner that he has taken treatment from 01.05.2016 till 1st week of July 2019 in Kerala is absolutely false.

5.Therefore, the petitioner has not come before this Court with clean hands and only within an intention to drag on the proceedings, the petitioner has filed the petition belatedly and no acceptable reason has been stated by the petitioner for the delay of 1123 days in filing the appeal and the learned Judge has rightly dismissed the said application in I.A.No.2003 of 2019 to condone the delay which does not warrant any interference from this Court.

6.Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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 Principal District Judge
Madurai.

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(CO)

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