



C.R.P.No.3708 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2022

CORAM

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

C.R.P.No.3708 of 2015
and M.P.No.1 of 2015

Varadharajan	..	Petitioner
	Vs.	
Nagammal	..	Respondent

Prayer : Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and final order passed in I.A.No.850 of 2013 in A.S.C.F.R.No.9026 of 2013 on the file of Principal District Judge, Tiruppur dated 26.06.2015.

For Petitioner : Mr.S.Kasirajan
For Respondent : Notice served
No appearance

ORDER

This Civil Revision Petition has been filed as against the fair and final order passed in I.A.No.850 of 2013 in A.S.C.F.R.No.9026 of 2013 dated 26.06.2015, on the file of the learned Principal District Judge, Tiruppur, thereby dismissing the petition to condone the delay in filing of



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Appeal Suit.

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2. The petitioner is the defendant in the suit filed by the respondent for recovery of money. The said suit was decreed in favour of the respondent. Aggrieved by the same, petitioner preferred an Appeal Suit with a delay of 251 days in filing the Appeal Suit.

3. A perusal of the affidavit filed in support of the condone delay petition revealed that, after decreeing the suit, the counsel failed to inform the same to the petitioner herein. In the meanwhile, the petitioner also got fracture on his leg. Therefore, he could not get proper information from his counsel. Only after the receipt of notice in the execution petition in E.P.No.35 of 2013, the petitioner had knowledge about the decree passed in the suit. Therefore, there was delay in 251 days in filing the Appeal Suit.

4. While ordering notice in this petition, this Court granted interim stay of execution proceedings on condition that the petitioner shall deposit 50% of the decreed amount to the credit of the Trial Court.



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Accordingly, the petitioner had duly complied with the said condition and deposited 50% of the decreed amount to the credit of O.S.No.61 of 2010 on the file of the Trial Court.

5. Though, notice was served on the respondent and his name has been printed, no one appeared on behalf of him in person or through pleader.

6. Considering the above facts and circumstances of the case, the petitioner may be given one more opportunity to put forth his case in the Appeal Suit.

7. In view of the above, the fair and final order passed in I.A.No.850 of 2013 in A.S.C.F.R.No.9026 of 2013 dated 26.06.2015, on the file of the learned Principal District Judge, Tiruppur, is hereby set aside. The Appellate Court is directed to number the appeal and dispose of the same, within a period of three months from the date of receipt of numbering the appeal suit.



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8. Accordingly, this Civil Revision Petition is allowed.

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Consequently connected miscellaneous petition is closed. No costs.

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Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

mn

To

The Principal District Judge, Tiruppur.



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G.K.ILANTHIRAIYAN,J.

mn

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