



C.R.P.No.1678 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2022

CORAM

THE HON'BLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.1678 of 2020 and
C.M.P.No.10474 of 2020

K.Mahindraraja

... Petitioner

Vs.

P.Subramani

... Respondent

Civil Revision Petition is filed under Section 115 C.P.C. to set aside the fair and final order passed in I.A.No.91 of 2019 in O.S.No.19 of 2018 dated 19.12.2019 on the file of the learned Principal District Judge, Tiruvannamalai.

For Petitioner : Mr.M.Mariappan

For Respondent : Mr.M.G.Ramachandiran

ORDER

The present Civil Revision Petition has been filed to set aside the order passed in I.A.No.91 of 2019 in O.S.No.19 of 2018 dated 19.12.2019 on the file of the learned Principal District Judge, Tiruvannamalai.



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2. The respondent is the plaintiff and the petitioner is the defendant in the suit.

3. The brief facts of the case is that the respondent filed a suit for specific performance on the registered agreement of sale dated 10.06.2015 directing the petitioner to receive the balance sale consideration of Rs.30,000/- and to execute the sale deed in favour of the plaintiff. The suit was decreed exparte on 14.09.2018. As against the same, I.A.No.91 of 2018 was filed by the petitioner seeking to condone the delay of 236 days in filing the petition to set aside the exparte order by stating that though the summon was served on the petitioner to appear before the court, on account of the fact that he was suffering from Jaundice and dysentery, he had become bedridden, therefore, stated that he was not able to appear before the court. However, the court below allowed the said I.A., by directing the petitioner to pay a sum of Rs.1,000/- to the respondent, failing which, the said petition ordered to be dismissed. Since the payment was not paid, the application was dismissed. As against the same, this petition is filed.



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4. The learned counsel for the petitioner would submit that the clerck of the learned counsel before court below had wrongly noted the hearing date, therefore, the cost was not paid in time and the same is neither willful nor wanton and the petitioner is always willing to contest the suit. Further, the learned counsel for the petitioner submitted that he is ready to abide by the conditions as stipulated by this Court and pleaded to allow the petition.

5. Heard the learned counsel for the respondent on the submissions made by the petitioner.

6. Considering the fact that the petitioner was suffering from jaundice and that he was bedridden and coupled with the fact that the petitioner is now ready and willing to abide by the conditions stipulated by this Court, in order to give one more opportunity to the petitioner, in the interest of justice this Court is inclined to dispose of the present Civil Revision Petition. However, considering the huge delay, the learned counsel for the petitioner is directed to pay a sum of Rs.5,000/- [Rupees Five Thousand only] to the learned counsel for respondent.



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With the above observation, the Civil Revision Petition is disposed of.

Considering the fact that the suit is of the year 2018, the learned Principal District Judge, Thiruvannamalai, is directed to dispose of the suit as expeditiously as possible. The parties are directed to co-operate with the trial by filing necessary documents and by avoiding unnecessary adjournments to enable the court below to complete the trial as expeditiously as possible. Consequently, connected miscellaneous petition is closed. No costs.

21.12.2022

Index : Yes/No
Internet : Yes/No
Speaking /Non-Speaking Order

ssd

To

1. The Principal District Judge,
Tiruvannamalai.
2. The Section Officer,
V.R.Section,
High Court, Madras

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V.BHAVANI SUBBAROYAN, J.,

ssd

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