



C.R.P.No.2562 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.2562 of 2019

Balaiya @ Balaji

....

Petitioner

Vs

Dhuruvaasan

....

Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order passed in I.A.No.182 of 2018 in O.S.No.118 of 2008 on the file of the District Munsif-cum-Judicial Magistrate, Denkanikottai, dated 02.01.2019.

For Petitioners : Mr. S.Kumaran
for D.Saravanan
For Respondent : No appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 02.01.2019 passed in I.A.No.182 of 2018 in O.S.No.118 of 2008 on the file of the District Munsif-cum-Judicial Magistrate, Denkanikottai, thereby dismissing the petition to condone the delay of 766 days to restore the suit.



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2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed a suit for declaration and permanent injunction in respect of the suit property. When the suit was ripe for trial, the petitioner was absent before the Trial Court and his advocate also failed to appear before the Trial Court. Therefore, the suit itself was dismissed for default on 04.12.2015.

3. The learned counsel appearing for the petitioner would submit that he failed to file a petition to restore the suit in time, since the petitioner was suffering with Jaundice and as such, he was unable to instruct his counsel and also he was not able to appear before the Trial Court. Therefore, the petitioner may be given one more opportunity to proceed with the suit.

4. Though notice has been served on the respondent and his name is printed in the cause list, there is no representation for the respondent either in person or through counsel.



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5. Being satisfied with the reason stated in the affidavit along with the Civil Revision Petition, the order dated 02.01.2019 passed in I.A.No.182 of 2018 in O.S.No.118 of 2008 on the file of the District Munsif-cum-Judicial Magistrate, Denkanikottai, is hereby set aside, on condition that the petitioner shall pay a sum of Rs.5,000/- as cost to the respondent within a period of two weeks from the date of receipt of a copy of this order. On such payment, the Trial Court is directed to restore the suit to its file and proceed with the trial. Since, the suit is of the year 2008, the Trial Court is directed to dispose of the suit within a period of six months from the date of restoration of the suit.

23.12.2022

Index:Yes/No

Internet:Yes/No

Speaking Order: Yes/No

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To

The District Munsif-cum-Judicial Magistrate,
Denkanikottai.



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G.K.ILANTHIRAIYAN.J,

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