



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Monday, the Twenty Fourth day of January
Two Thousand and Twenty Two

PRESENT

The Hon`ble Ms.Justice V.M.VELUMANI

C.M.P.No.14797 of 2019
in C.R.P. (NPD).No.1820 of 2004

The Commissioner,
Tiruppur Municipality,
Tiruppur, Coimbatore District.

... Petitioner/ Petitioner

Vs.

Leela Grace

... Respondent/ Respondent

Civil Miscellaneous Petition filed under section 5 of Limitation Act, the High Court will be pleased to condone the delay of 440 days in filing restoration petition to restore the CRP. in CRP (NPD) No.1820 of 2004 dismissed on 15.03.2018.

Prayer: Civil Revision Petition filed under Under Section 115 of the Civil Procedure Code, against the order made in I.A.No.133 of 2004 in I.A.No.501 of 2001 in O.S.No.402 of 1997 dated 20.04.2004 on the file of the Subordinate Judge, Tiruppur.

Order : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.S.Nedunchezian, Advocate for the Petitioner and of Mr.S.Saravana Kumar, for M/s.I.Abrar md Abdullah for the Respondent the court made the following order:-

The petitioner is 2nd defendant in O.S.No.402 of 1997 on the file of the Sub Court, Tiruppur, filed by the respondent herein claiming a sum of Rs.3,00,000/- together with interest towards damages against the petitioner and others. The petitioner and others did not appear and an exparte decree was passed on 25.02.1999. The petitioner filed I.A.No.501 of 2001 to condone the delay of 520 days in filing the petition to set aside the exparte decree. The said application was dismissed for default. The petitioner filed present I.A.No.133 of 2004, to condone the delay of 90 days in filing an application to restore I.A.No.501 of 2001. The learned Judge, after hearing the counsel for the petitioner and respondent, dismissed the



2. Against that order dated 20.04.2004 made in I.A.No.133 of 2004 in I.A.No.591 of 2001 in O.S.No.402 of 1997, the petitioner has come out with the present Civil Revision Petition. When the C.R.P. was listed on 15.03.2018 under the caption 'for dismissal', there was no representation on behalf of the petitioner and respondent and hence, the same was dismissed for non-prosecution. The present C.M.P. is filed to condone the delay of 440 days in filing the petition to restore C.R.P.(NPD).No.1820 of 2004, which was dismissed for non-prosecution on 15.03.2018.

3. According to the learned counsel appearing for the petitioner, on 15.03.2018, the name of the counsel for the petitioner was not correctly printed and by inadvertence, the counsel for the petitioner failed to note the listing of C.R.P. and prayed to give an opportunity to contest the C.R.P. on merits.

4. Mr.S.Saravanakumar, learned counsel appearing for the respondent filed counter affidavit and submitted that the reason given by the petitioner is not valid and the present petition is filed only to drag on the proceedings and prayed for dismissal of Civil Miscellaneous Petition.

5. Heard the learned counsel appearing for the petitioner as well as the respondent and perused the entire materials available on record.

6. From the materials on record, it is seen that it is the case of the counsel for the petitioner that on 15.03.2018, his name was not printed correctly and by inadvertence, he failed to note the listing of C.R.P. Considering the above submissions and also the petitioner is a local body, in order to give an opportunity to the petitioner to put forth their case on merits, C.M.P.No.14797 of 2019 is ordered on condition that the petitioner pays a sum of Rs.5,000/- (Five Thousand Only) to Mr.S.Saravanakumar, the learned counsel appearing for the respondent, within a period of four weeks from the date of receipt of a copy of this order. If the petitioner fails to comply with the condition imposed by this Court today in C.M.P.No.14797 of 2019, the said C.M.P. shall stand dismissed automatically.

With the above direction, this Civil Miscellaneous Petition is ordered and C.R.P.(NPD).No.1820 of 2004 is restored to file. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



To,

The Subordinate Judge, Tiruppur.

Copy to:

The Section Officer,
Judicial Section,
High Court, Madras

C.M.P.No.14797 of 2019
in C.R.P. (NPD) .No.1820 of 2004

Petition allowed etc as stated
within.

mg (CO)
A.SK(10.02.2022)