



C.R.P.Nos.4264 & 4265 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.12.2022

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THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.4264 & 4265 of 2022
and
C.M.P.Nos.22383 & 22380 of 2022

A.Umaya ... Petitioner in both the CRPs.

Vs.

T.V.Karunakaran ... Respondent in CRP No.4264/2022

S.Kalaivani ... Respondent in CRP No.4265/2022

Prayer in CRP No.4264/2022:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed by the Principal District Court, Krishnagiri in I.A.No.1 of 2021 in O.S.No.87 of 2014 dated 10.03.2022 and allow the Interlocutory Application as prayed for.

Prayer in CRP No.4265/2022:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed by the Principal District Court, Krishnagiri in I.A.No.1 of 2021 in O.S.No.88 of 2014 dated 10.03.2022 and allow the Interlocutory Application as prayed for.



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For Petitioner
in both the CRPs : Mr.J.Pradeep

COMMON ORDER

The Civil Revision Petitions have been filed under Article 227 of the Constitution of India to set aside the fair and decretal order passed by the Principal District Court, Krishnagiri, in I.A.No.1 of 2021, in O.S.No.88 of 2014, and O.S.No.88 of 2014, both dated 10.03.2022 and allow the Interlocutory Applications as prayed for.

2. The revision petitioner in both the CRPs is the plaintiff, who filed the suits for permanent injunction. The suits were dismissed for default on 09.01.2015 at the first instance and thereafter, again dismissed on 05.11.2015 for the second time due to the absence of the plaintiff. Third time the suits were dismissed on 01.08.2016 and restored to file on 31.10.2017 by the Trial Court. The cases were posted for trial after restoration and the plaintiff did not let any evidence on her side and the plaintiff side evidence was closed.



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3. The cases were posted for the defendant's side evidence and the same were recorded and the Court reserved the cases for delivering judgement after hearing the arguments. Even at that point of time, the plaintiff did not take any steps to reopen her side in order to let in evidence. The judgement was delivered on 22.11.2017. After a delay of about 1292 days, the revision petitioner filed a petition under Order 9 Rule 9 of CPC, for the reopening of evidence. The Trial Court considered the facts and circumstances and dismissed the petition as not maintainable. The Trial Court recorded the fact that the revision petitioner/plaintiff was in the habit of leaving the case to be dismissed by default in many occasions and such an approach of the plaintiff cannot be considered for the purpose of condoning the long delay of 1292 days in filing the petition. The judgement was passed on merits and accordingly, the Interlocutory Applications were dismissed.

4. Unconardonable delay cannot be condoned by the Courts in a routine manner. Genuine reasons if substantiated may be considered by the Courts for considering long delay. In the present case, the reasons furnished



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by the revision petitioner are insufficient to condone the enormous delay of 1292 days in filing the petition in Order 9 Rule 9 of CPC. Further, the Trial Court disposed of the suits and judgement was delivered.

5. That being the factum, the Trial Court has rightly rejected the Interlocutory Application on the ground that it is not maintainable. This Court does not find any infirmity in respect of the order passed by the Trial Court and accordingly, the present Civil Revision Petitions stand **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

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23.12.2022

Index:Yes

Internet:Yes

Speaking Order

To

1. Principal District Court, Krishnagiri.

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S.M.SUBRAMANIAM.J.,

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