



C.R.P.No.3066 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.11.2022

CORAM:

THE HONOURABLE Mr. JUSTICE S.SOUNTHAR

C.R.P.No.3066 of 2022

Selvi

... Petitioner

Vs.

1.Parthasarathy

2.Salammal

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order dated 02.08.2022 in I.A.No.206 of 2021 in O.S.No.89 of 2016 on the file of the Principal District Musif Court at Villupuram.

For Petitioner : M/s.K.S.Ilangovan
for Achari and Antoni Associates
For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the petition filed by the revision petitioner seeking to condone the delay of 58 days in filing the petition to restore the suit which was dismissed for



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default on 16.04.2021.

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2. According to the petitioner, he filed a suit for declaration and recovery of possession against the respondents and the same is pending. The trial had already commenced and it is in the stage of P.W.1 chief examination. It is further stated by the learned counsel for the petitioner that the suit was posted for hearing on 16.04.2021 for further chief examination of P.W.1, and he did not appear before the Court due to illness and consequently the suit was dismissed for default. After recovery from illness, he filed a petition on 27.07.2021 to restore the suit which was dismissed for default along with petition to condone the delay of 58 days.

3. Assailing the order of the Court below, the learned counsel for the petitioner submitted that suit was dismissed for default on 16.04.2021 during covid period. Consequently, in view of the order passed by Hon'ble Apex Court granting general exclusion of limitation from 15.03.2020 to 28.02.2022., due to covid 19 pandemic, there is no need to file a petition to condone the delay. However the petitioner was advised to file a petition to condone the delay of 58 days and the Court below dismissed the petition without considering the exemption from limitation. I find there is a considerable force in the argument made by the learned



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counsel for the petitioner. In view of the general exclusion of limitation granted by the Hon'ble Apex Court during Covid period namely from 15.03.2020 to 28.02.2022, the petition for restoration of suit filed by the revision petitioner was very much in time. Therefore, there is no need to file condone delay petition. The petitioner herein has sworn an affidavit stating that he was affected by some kind of illness and therefore he could not be able to appear before the Court on 16.04.2021 and contest the suit which is for declaration and recovery of possession. In view of the fact that substantial rights of the parties is affected by the the dismissal of the I.A., in order to give an opportunity to the revision petitioner to conduct the case, this Court is inclined to set aside the order passed by the Court below.

4. The Civil Revision Petition is allowed on payment of cost of Rs.5,000/- to the respondents within a period of four (4) weeks from the date of receipt of copy of this order. If the petitioner fails to pay the cost within the stipulated time, the Civil Revision Petition stands automatically dismissed. The learned counsel for the respondents made a request to this Court, to direct the Court below to dispose of the suit. Having regard to the fact that the suit is of the year 2016 and also the



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S.SOUNTHAR, J.

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fact that trial had already commenced, this Court is inclined to issue a direction to the Court below to dispose of the suit within a period of six (6) months from the date of receipt of copy of this order. No costs.

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Index: Yes/ No

Speaking Order / Non-Speaking Order

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To
The Principal District Munsif Court
Villupuram.

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