



C.R.P.No.1358 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2022

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.1358 of 2017

and

CMP No.6354 of 2017

Rajeswari

....

Petitioner

Vs

G.P.Bharathi

....

Respondent

Prayer :- Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the order dated 16.03.2017 allowing the petition in I.A.No.381 of 2016 to condone the delay of 273 days in filing restoration application in O.S.No.223 of 2011 on the file of Principal District Munsif at Poonamallee.

For Petitioner : Mr.R.Ganesh Kumar

For Respondent : Mr.B.Gopalakrishnan

ORDER

This Civil Revision Petition has been filed to set aside the order dated 16.03.2017 passed in I.A.No.381 of 2016 in O.S.No.223 of 2011 on the file of Principal District Munsif at Poonamallee, thereby allowing the



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petition to condone the delay of 273 days in filing the petition to restore the suit.

2. The petitioner is the defendant and the respondent is the plaintiff. The respondent filed a suit for bare injunction. However, at the time of trial, the respondent was absent and as such, the suit was dismissed for default by a Judgment and Decree dated 04.04.2014. Thereafter, the respondent filed a petition to restore the suit with the delay of 273 days in filing the petition.

3. The learned counsel appearing for the petitioner would submit that without any proper reason the respondent filed a petition to condone the delay of 273 days and the Trial Court mechanically allowed the same without any cost.

4. A perusal of the affidavit filed in support of the condone delay petition reveals that the respondent was suffering from viral hepatitis and he was advised to take the treatment and rest by the indigenous medical



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practitioner for nearly 4 months. Therefore, he could not contact his counsel to give proper instructions. Therefore, the Court below rightly allowed the petition to condone the delay of 273 days in filing the petition to restore the suit. However, the Court below failed to impose any cost.

5. In view of the above, this Court finds no infirmity or illegality in the order dated 16.03.2017 passed in I.A.No.381 of 2016 in O.S.No.223 of 2011 on the file of Principal District Munsif at Poonamallee. Accordingly, this Civil Revision Petition stands dismissed. Consequently, connected miscellaneous petition is closed. No costs.

16.12.2022

Index:Yes/No
Internet:Yes/No
Speaking Order: Yes/No
Lpp

To

The Principal District Munsif,
Poonamallee.



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G.K.ILANTHIRAIYAN, J.

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