



CRP(NPD)(MD)No.1192 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.10.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(NPD)(MD)No.1192 of 2021

Palanisamy

... Petitioner

versus

1. Saravanan

2. Shanmugam

3. Durga Letchimi

... Respondents

Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order dated 20.04.2021 made in I.A.No. 474 of 2020 in O.S.No.392 of 2015 on the file of the Additional Subordinate Court, Pudukkottai.

For Petitioner : Mr.P.Dhanasekaran

For Respondents : Mr.S.Dheenadhayalan

ORDER

This Civil Revision Petition is filed against the order dated 20.04.2021 passed in I.A.No.474 of 2020 in O.S.No.392 of 2015 on the



CRP(NPD)(MD)No.1192 of 2021

file of the Additional Subordinate Court, Pudukkottai.

WEB COPY

2. The petitioner herein filed a suit in O.S.No.392 of 2015 on the file of the learned Additional Sub Judge, Pudukkottai, for specific performance. The said suit was dismissed for default on 25.02.2020. Thereafter, the petitioner filed an interlocutory application in I.A.No. 474 of 2020 in O.S.No.392 of 2015, seeking to condone the delay of 217 days in filing the application to restore the suit, stating that due to illness, he could not appear before the trial Court and also instructed his counsel. However, the trial Court dismissed the said application, by order dated 20.04.2021. Aggrieved over the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner submits that the petitioner has assigned sufficient cause that on 25.02.2020, since he was suffering from viral fever, he could not appear before the trial Court and also instructed his counsel. He further submits that due to



CRP(NPD)(MD)No.1192 of 2021

the pandemic situation, he could not file the application in time and therefore, the delay had occurred. However, the trial Court, without considering the said reasons, has mechanically dismissed the said application without passing any reasoned order.

4. The learned counsel appearing for the respondents submits that the petitioner is a money lender and by creating a forged document, he filed the said suit for specific performance. Since he is not having a good case, he is not interested to prosecute the suit. Therefore, he has purposely not appeared before the trial court. However, in order to harass the respondents, the petitioner filed the said application. Hence, he prays for dismissal of this petition.

5. Considering the rival submissions made and also considering the reasons assigned by the petitioner and also considering the fact that due to the pandemic situation, the delay had occurred, this Court is inclined to allow the Civil Revision Petition, however, with costs of



CRP(NPD)(MD)No.1192 of 2021

Rs.5,000/- to be paid by the petitioner to the respondents within a period of two weeks from the date of receipt of a copy of this order.

6. Accordingly, the Civil Revision Petition is allowed. The order dated 20.04.2021 made in I.A.No.474 of 2020 in O.S.No.392 of 2015 on the file of the Additional Subordinate Court, Pudukkottai, is hereby set aside and the delay of 217 days in filing the application to restore the suit is condoned, on condition that the petitioner/plaintiff shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondents within a period of two weeks from the date of receipt of a copy of this order. On filing the cost memo, the trial Court, namely, the learned Additional Subordinate Judge, Pudukkottai, shall restore the suit and take on file and dispose of the same on merits and in accordance with law, as expeditiously as possible. No costs.

12.10.2022

ogy

Index : Yes / No.

Internet: Yes / No.



CRP(NPD)(MD)No.1192 of 2021

WEB COPY

To

1. The Additional Subordinate Court,
Pudukkottai.



WEB COPY



CRP(NPD)(MD)No.1192 of 2021

B.PUGALENDHI, J.

ogy

CRP(NPD)(MD)No.1192 of 2021

12.10.2022