



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:09.03.2022

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P. (PD) (MD) .Nos.489 and 490 of 2017
and
C.M.P. (MD) .Nos.2318 and 2319 of 2017

The Director,
Poabson Company Limited
its Unit at Kaliyal
Kaliyal Village,
Vilavancode Taluk,
Kanyakumari District.

... Petitioner/Respondent/Defendant
in both C.R.Ps.

vs.

G.Sujana Bai

... Respondent/Petitioner/Plaintiff
in both C.R.Ps.

PRAYER: Civil Revision Petitions are filed under Article 115 of the CPC against the order passed by the learned II Additional District Munsif, Kuzhithurai in I.A.Nos.48 and 49 of 2016 in O.S.No.100 of 2011, dated 26.09.2016.

For Petitioner
For Respondent

: Mr.N.Dilip Kumar
: Mr.G.Cenil

C O M M O N O R D E R

These Civil Revision Petitions have been filed challenging the order passed by the learned II Additional District Munsif, Kuzhithurai in I.A.Nos.48 and 49 of 2016 in O.S.No.100 of 2011, dated 26.09.2016.

2. The revision petitioner is the defendant and the respondent is the plaintiff in O.S.No.100 of 2011. The respondent has filed applications in I.A.Nos.48 and 49 to condone the delay of 560 days in preferring the petition to restore the suit and to restore the suit in O.S.No.100 of 2011. The Court below after hearing both the parties, passed the following order:

"4. Heard. Documents perused. Admittedly the suit filed by the plaintiff was transferred to 2nd Additional District Munsif Court from the file of 1st Additional District Munsif Court on the orders of the Hon'ble



District Court, Nagercoil. It is the duty of the plaintiff to follow up the case carefully. According to the petitioner, the suit was listed finally on 02.08.2013 and subsequently there were no diary entry in respect of the present suit. Therefore, the petitioner had kept quit for a long period of 2 years, without bothering about the fare of the suit. Further, the reasons assigned for the delay is also not acceptable one. For the fault on the side of the petitioner, he cannot blame the court for his lapses. The reasons stated by the petitioner in the affidavit is not satisfied one and deserves to be rejected. However, in order to give a final opportunity and in the interest of justice, this court deems fit to give an opportunity to redress his legal remedy in the court. The petitions filed by the petitioner is allowed on the following conditions,

"In the result, these petitions (I.A.No.48, 49/16) are allowed on condition that,

i) the petition in I.A.No.48 of 2016 is allowed on condition that, the petitioner shall pay a cost of Rs.600/- to the respondent on or before 07.10.2016, failing of which, the petition will be dismissed.

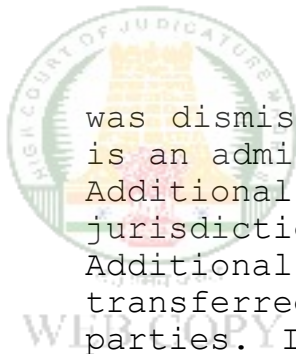
ii) the petition in I.A.No.49 of 2016 is allowed on condition that, the petitioner shall pay a cost of Rs.1000/- to the respondent on or before 07.10.2016, failing of which, the petition will be dismissed."

3. A perusal of the above order clearly shows that the Court below has not allowed the applications to condone the delay as well as to restore the suit, on the basis of the reasons assigned by the respondent/plaintiff. However, in the interest of justice and in order to give final opportunity to the petitioner, the same were allowed.

4. By citing the above, the learned counsel for the petitioner contended that the respondent/plaintiff has not made out any case and the reason assigned by the respondent/plaintiff for the delay was rejected. However, in order to give final opportunity and in the interest of justice, these applications were allowed and hence, the respondent/plaintiff is not entitled for the relief as sought in the applications and he prays that the order of the Court below may be set aside

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

6. Upon hearing the learned counsel for the petitioner as well as the learned counsel for the respondent, it appears that the suit



was dismissed for default for the non-appearance of the parties. It is an admitted fact that originally the suit was listed before the I Additional District Munsif Court, Kuzhithurai and subsequently, jurisdiction was changed and the suit was transferred to the II Additional District Munsif, Kuzhithurai. Once the matter is transferred, it is the Court to send notice to the concerned parties. In the present case, no notice was sent to the parties. Therefore, the respondent/plaintiff cannot be blamed for his non-appearance before the Court. This aspect was not considered. However, the Court below allowed the applications, in the interest of justice. Therefore, I do not find any merit in the submission made by the learned counsel for the revision petitioner. The respondent/plaintiff is entitled for the relief as sought for in the applications. Hence, the revision petitions are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed.

7. Since the suit is pending from the year 2011, this Court directs the learned II Additional District Munsif, Kuzhithurai to complete the trial in O.S.No.100 of 2011 and pass final orders within a period of nine months from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

akv

To
The II Additional District Munsif,
Kuzhithurai.

COPY TO:-

The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai. (2 Copies)

+1 CC to M/s.N.DILIPKUMAR, Advocate (SR-11370[F] dated 10/03/2022)

+1 CC to M/s.G.CENIL, Advocate (SR-11315[F] dated 10/03/2022)

ORDER MADE IN
C.R.P. (PD) (MD) .No.489 and 490 of 2017
09.03.2022

ims (CO)

GC(22.03.2022) 3P 6C

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