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C.R.P.Nos.3182 & 3184 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2023

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.Nos.3182 & 3184 of 2022

Rani

... Petitioner
(in both C.R.Ps)

Vs.

Lakshmiammal

... Respondent
(in both C.R.Ps)

Prayer in C.R.P.No.3182 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned common Fair Order passed in I.A.No.1 of 2020 in O.S.No.257 of 2010 dated 21.04.2022 on the file of the District Munsif Court at Maduranthakam.

Prayer in C.R.P.No.3184 of 2022: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the impugned common Fair Order passed in I.A.No.3 of 2020 in O.S.No.257 of 2010 dated 21.04.2022 on the file of the District Munsif Court at Maduranthakam.

For Petitioner : Mr.S.Udaya Kumar
(in both C.R.Ps)

For Respondent : Mr.K.Thenrajan
(in both C.R.Ps)



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COMMON ORDER

These civil revision petitions are filed to set aside the common order and decretal order passed in I.A.No.1 of 2020 and I.A.No.3 of 2020 in O.S.No,257 of 2010 dated 21.04.2022.

2. The revision petitioner is the plaintiff instituted a Suit for bar injunction. The Suit was dismissed for default on 13.11.2013. However, no application was filed to restore the Suit within the time limit and there was an enormous delay in filing an application to set aside the order passed by the Trial Court dismissing the Suit for default on 13.11.2013. Therefore, the revision petitioner filed I.A.No.1 of 2020 to condone the delay of 1495 days in representing the petition. I.A.No.3 of 2020 was filed to condone the delay of 265 days in filing the application to restore the Suit. Both the Interlocutory Applications were considered by the Trial Court and parties were heard. The Trial Court found that the delay was not explained properly and the reason stated for condoning such a long delay was not convincing. The Trial Court found that the delay of 1495 days in filing the representing petition and 265 days in filing the restoration application shows the attitude of the revision petitioner / plaintiff for causing unreasonable delay and the



attitude for dragging on the proceedings. In the event of allowing the petition, it would cause prejudice to the defendant in the Suit and in the interest of justice, the Trial Court dismissed the Application with cost.

3. Unconardonable delay cannot be condoned by the Court in a routine manner. Courts are taking lenient view in respect of meagre delay in filing an application and if the delay is enormous, then the reasons must be substantiated with evidence. Unsubstantiated or unexplained reasons cannot be a ground to condone the long delay in filing such applications either to set aside the exparte order or to restore the Suit or otherwise. In the event of restoring the Suit after long delay, undoubtedly, would cause prejudice to the interest of the other party and thus, the Courts are expected to consider the reasons for such delay and accordingly, exercise the power of discretion.

4. Law of limitation is substantive. Rule is to follow the limitation prescribed. Condonation of delay is exception. Exercise of power of discretion must be done judiciously, so as to ensure no prejudice would be caused to the either of the parties. Thus, the Courts are expected to condone the meagre delay by taking a lenient view. In respect of long delay, the Courts cannot condone the delay in a routine manner, so as to cause



prejudice to the other parties and only explained delay to the satisfaction of the Court alone to be considered and not otherwise.

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5. In the present case, the reasons stated for condoning the long delay was neither candid nor convincing. Thus, the Trial Court has refused to condone the delay. This Court do not find any infirmity or perversity in respect of the reasons assigned for the purpose of dismissal of the Interlocutory Application. Consequently, this Civil Revision Petition stands dismissed. No costs.

20.01.2023

Jeni

Index : Yes

Neutral Citation : Yes

Speaking order

To

The Judge,
District Munsif Court,
Maduranthakam.



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S.M.SUBRAMANIAM, J.

Jeni

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