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C.R.P.No.3806 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.08.2023

CORAM

THE HONOURABLE Mr. JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3806 of 2019

Rajamani ... Petitioner/Petitioner
/Petitioner

Vs.

Selvamurugan ... Respondent/Respondent
/Respondent

PRAYER: Petition filed under Section 115 of the Code of Civil Procedure against the fair and decretal order dated 20.06.2019 in I.A.No.1 of 2019 in G.W.O.P.No.32 of 2014 on the file of the learned Principal District Judge, Perambalur.

For Petitioner : Mr.R.Natarajan

For Respondent : No appearance



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ORDER

This revision is preferred against the order dated 20.06.2019 in I.A.No.1 of 2019 in G.W.O.P.No.32 of 2014 on the file of the learned Principal District Judge, Perambalur. The petitioner before me is the grandmother of two minor girls, by name, Iniya and Kaviya. Their mother Revathi, who is the daughter of the revision petitioner, died on 19.05.2014. The respondent before me is the son-in-law of the revision petitioner. On the death of the wife, an application was moved in G.W.O.P.No.32 of 2014 on the file of the learned Principal District Judge, Perambalur, to declare the petitioner as the guardian for the minor children. The said application was dismissed for default on 29.09.2016. In order to restore the same, an application was filed in I.A.No.1 of 2019 with a condonation of delay of 822 days in filing the application to



restore. The said application was dismissed by an order dated 20.06.2019. Against which, this revision has been filed.

2.The learned counsel for the petitioner would submit that the petitioner is a street vendor and therefore, she was unable to be present when the matter was called. In fact, the learned Judge has recorded that the respondent has no objection for the condonation of delay of 822 days in filing the application to restore the GWOP. Nonetheless, on the date of which when the matter was called, though the learned counsel for the petitioner was present, since the petitioner was not present in person, the GWOP was dismissed.

3.Heard the learned counsel appearing for the petitioner. Though the respondent has been served there is no representation either in person or through pleader.



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4.For addressing the arguments in the application, the presence of the party is not necessary. The proceedings dated 20.06.2019 show that the petitioner's counsel Mr.N.Mani was present so as the respondent's counsel Mr.K.Chinnappa. The learned Judge heard the arguments of the counsels and decided the matter in I.A.No.1 of 2019. Furthermore, in this case, the respondent had no objection to the condonation of delay in I.A.No.1 of 2019. Perhaps, it was because the respondent was aware of the circumstances in which the petitioner has been placed.

5.Having regard to the fact that the respondent had no objection to condone the delay, to dismiss the petition on the ground that the petitioner was not present in person, though represented by the learned counsel for the petitioner, is unfortunate. I have gone through the affidavit filed in support of this petition. Sufficient cause has been made out.



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Hence, this Civil Revision Petition is allowed. The order dated 20.06.2019 in I.A.No.1 of 2019 in G.W.O.P.No.32 of 2014 on the file of the learned Principal District Judge, Perambalur is set aside. The learned Judge is requested to number the petition under Order 9 Rule 9 of the Code of Civil Procedure and allow the same. No costs.

30.08.2023

Index : Yes/No
Internet : Yes/No
Speaking order / Non speaking order
mps

To

The Principal District Judge,
Perambalur.



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V. LAKSHMINARAYANAN, J.

mps

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C.R.P.No.3806 of 2017