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CRP. No. 3825 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3825 of 2023
& CMP No. 23684 of 2023

A.Jayabal

...Petitioner

Vs.

- 1.Velou Radha
- 2.Velou Rangandan
- 3.The commissioner
Oulgaret Municipality,
Oulgaret,
Puducherry.
- 4.Assistant Engineer/TOW – II
Electricity Department,
Puducherry.

....Respondents

PRAYER : This petition filed under Section 115 of CPC, to set aside the order dated 07.09.2023 passed by the Principal District Judge Pondicherry in I.A No. 634 of 2023 in un-numbered A.S No. /2023 and allow the revision with costs through out.

For Petitioner : Mr.K.Kannadhasan
For Respondent: Mr. T.M.Naveen.



CRP. No. 3825 of 2023

WEB COPY

ORDER

Challenging the impugned order dated 07.09.2023 passed by the Principal District Judge Pondicherry in I.A No. 634 of 2023 in un-numbered A.S No. /2023, the petitioner filed this petition.

2. The suit in O.S No. 21 of 2021 was filed by the first and second respondent herein for the relief of declaration and other consequential relief against the petitioner herein and second and third respondent herein and the same was decreed in favour of the first and second respondent herein. Thereafter, the petitioner herein filed an appeal before the Principal District Court, Pondicherry with delay of 193 days, and filed I.A No. 634 of 2023 in un-numbered A.S. /2023 to condone the delay of 193 days for filing the appeal, by stating that the petitioners was not able to trace the case records, due to which, the petitioner was unable to present the appeal in time and the said application was objected by the first and second respondent herein stated that that in order to drag on the proceedings the petitioner filed this petition. Considering the submissions on either side, the Court below dismissed the said application stating that the petitioner failed to show sufficient cause for delay. Challenging the same, the petitioner filed this



CRP. No. 3825 of 2023

petition.

WEB COPY

3. The learned counsel for the petitioner submits that the petitioner have valid defence to prove his case due to inadvertence of the petitioner's lower Court counsel as the case records was missed and thereafter it was found hence the petitioner filed the appeal after limitation period. Further if the opportunity is not given to the petitioner it put too much hardships to the petitioner. Hence he prays to allow this petition.

4. The learned counsel for the respondents submit that the Court below rightly dismissed the petition which needs no interference. Hence he prays to dismiss this petition.

5. Considering the submissions on either side and also the facts of the case, delay is not wilful one, if the opportunity is not given to the petitioner his valuable right to defend his case will be defeated. Hence, this Court allow this petition with the condition that the petitioner shall pay a sum of Rs.5,000/- as Cost to the first and second respondent within a period of three weeks from the date of receipt of a copy of this order. Accordingly, order passed by the Principal District Judge, Pondicherry in I.A No. 634 of 2023 in un-numbered A.S No. /2023 is set aside. Thus, I.A No. 634 of 2023 in un-numbered A.S No. /2023 is allowed. After numbering the



CRP. No. 3825 of 2023

appeal, the Trial Court is directed to dispose the appeal within a period of three months from the date of receipt of a copy of this order.

6. In result, this Civil Revision petition is disposed of. Consequentially connected miscellaneous petition is closed.

20.10.2023

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WEB COPY



CRP. No. 3825 of 2023

T.V.THAMILSELVI,J.

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To

1. The Principal District Judge Pondicherry.

CRP No. 3825 of 2023
& CMP No. 23684 of 2023

20.10.2023