



C.R.P.No.3555 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.08.2023

CORAM

THE HONOURABLE MR.JUSTICE **V. LAKSHMINARAYANAN**

C.R.P.No.3555 of 2019

Selvam

.. Petitioner

VS

C.Sampathkumar

.. Respondent

Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 03.09.2019 passed in I.A.No.362 of 2019 in O.S.No.96 of 2017 on the file of the Principal District Judge, Erode.

For Petitioner : Mr.M.S.Palaniswamy

For Respondent : No appearance

ORDER

This civil revision petition arises against the order condoning the delay of 424 days in filing the application to set aside the exparte decree.

2. The suit is one for damages caused to the lorry and for loss of raw bananas. The plaintiff had valued the cost of bananas at Rs.2



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laks and the damages to the vehicle at Rs.75,000/-. The learned Trial Judge entered upon an exparte decree on 28.03.2018 and to set aside the same, an application was filed in I.A. No.362 of 2019. The learned Trial Judge found sufficient cause namely of the petitioner suffering from jaundice and has condoned the delay.

3. Heard Mr.M.S.Palaniswamy, learned counsel for petitioner. The respondent though served has not entered appearance.

4. Perusal of the records shows that the petitioner in his application in I.A. No.362 of 2019 has stated he is suffering from health issues and therefore was unable to attend Court. Learned counsel for petitioner would say that this is the reason because at the relevant time he had appeared before the criminal court proceedings. The perusal of the order of learned Trial Judge shows these documents were in fact filed before the learned Trial Judge which was considered and decided. Learned Trial Judge in paragraph 7 has given reason that she is not accepting Exs.R1 and R2. In a suit of damages, the learned Trial Judge found that the defendant has defence in the suit and therefore she exercised her discretion in favour of the respondent.



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5. All procedural irregularities are not susceptible to revision under Article 227 of the Constitution of India especially in a case where delay has been condoned and more so learned Trial Judge had imposed a cost of Rs.20,000/-. Learned counsel for petitioner says that the cost has not been received but typed set filed by the petitioner shows that cost has been deposited on 28.09.2019 as per the directions of the Court.

6. The Trial Court having exercised its discretion in favour of the respondent and having condoned the delay, I am not inclined to interfere with the same in view of the verdict of the Supreme Court in **N.Balakrishnan Vs. M.Krishnamurthy ((1998) 7 SCC 123)**.

7. In fine, the civil revision petition is dismissed. No costs.

8. Learned counsel for petitioner seeks for a direction that O.S. No.96 of 2017 be disposed of early. Therefore, acceding to the request, learned Principal District Judge, Erode is requested to take up I.A.No.362 of 2019 to set aside the exparte decree and allow the same and make all endeavours to dispose of the suit on or before 31.03.2024. The petitioner is permitted to withdraw the amount



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deposited by the respondent towards cost by filing appropriate application before the learned Principal District Judge, Erode.

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Index:Yes/No
Neutral Citation:Yes/No
mmi

To

The Principal District Judge,
Erode.



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V. LAKSHMINARAYANAN,J.

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