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C.R.P.No.4076 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2023

CORAM :

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

C.R.P.No.4076 of 2019

Ravi (alias) Guna

... Petitioner

Vs.

1. V.Krishnammal
2. C.Mynavathi

... Respondents

PRAYER: Civil Revision Petition has been filed under Section 115 of CPC, prayed to set aside the order and decretal order dated 17.09.2019 in I.A.No.17 of 2017 in A.S.No.9 of 2012 on the file of the Principal Sub Court, Myladuthurai and allow this revision petition.

For Petitioner	: Mr.R.Sanjay for R.Rajesh Vivekananthan
For Respondents	: No Appearance for R1 : Mr.B.Jawahar for R2



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ORDER

This Civil Revision Petition has been filed challenging the order and decretal order in I.A.No.17 of 2017 in A.S.No.9 of 2012 dated 17.09.2019 on the file of the Principal Sub Court, Myladuthurai.

2. The Appeal Suit No.9 of 2012 was dismissed for non prosecution on 22.01.2013 by the Principal Sub Court, Myladuthurai, since the appellant did not appear on that date. Thereafter, I.A.No.17 of 2017 was filed to restore A.S.No.9 of 2012 by the Revision Petitioner/Appellant. In the affidavit filed in support of the above I.A. the learned counsel for the revision petitioner/appellant has stated that the appellant was not well and undergoing medical treatment. Hence, he could not appear before the Appellate Court on 22.01.2013 and because of this bonafide reason, there was a delay of 1391 days in filing application for restoring the appeal suit in A.S.No.9 of 2012 on the file of the Principal Sub Court, Myladuthurai.

3. The counter was also filed by the respondent in the revision petition before the appellate Court stating that the reason adduced by the revision petitioner in the affidavit filed along with I.A.No.17 of 2017 are not



substantiated by the relevant documents. Hence, the trial Court has rightly rejected the application filed by the revision petitioner for the restoration of the suit in A.S.No.9 of 2012.

4. Heard both sides and perused the materials available on record.

5. In the case on hand, the appeal suit was dismissed for non prosecution on 22.01.2013 and the restoration application was filed after the delay of 1391 days and the reasons given for the delay is the revision petitioner/appellant was not well and was undergoing treatment, but, no documents have been filed in support of the averments made in the affidavit.

6. The trial Court has taken into consideration all these aspects and the fact that especially the reasons given by the revision petitioner/appellant are not substantiated by any documentary proof such as the date on which the revision petitioner/appellant was unwell, what is the period of treatment, what is the ailment he was having etc., Hence, the trial Court has rightly rejected the application in I.A.No. 17 of 2017 dated 28.03.2017 filed by the revision petitioner/appellant. Hence in view of the above factual matrix of



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the case, the order and decretal order made in I.A.No.17 of 2017 in A.S.No.9 of 2012 dated 17.09.2019 does not warrant any interference by this Court and this Court is not inclined to allow this petition.

7. Accordingly, this Civil Revision Petition is dismissed. No costs.

06.12.2023

Vv

Index : Yes/No
Speaking Order : Yes/No

To:

The Principal Sub Court,
Myladuthurai.



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J. SATHYA NARAYANA PRASAD, J.

Vv

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