



C.R.P.No.2816 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2023

CORAM : JUSTICE N.SESHASAYEE

C.R.P.No.2816 of 2019

M.Jinnu

.... Petitioner / Appellant /
Petitioner/Plaintiff

Vs

1.Subramani
2.Venkatesan

.... Respondents/Respondents /
Respondents / Defendants

Prayer : Civil Revision Petition filed under Section 115 of C.P.C. praying to set aside the fair and decretal order passed in I.A.No.34 of 2010 in A.S.SR.No.1155 of 2010 dated 07.03.2015 passed by the Principal District Judge, Chengalpattu.

For Petitioner : Mr.S.Parthasarathy
For Respondents : Mr.S.Ruban Prabu

ORDER

This revision is preferred challenging an order of the first appellate Court in I.A.No.34 of 2010 in an unnumbered first appeal, dismissing the application filed by the plaintiff for condonation of delay of 217 days in preferring an appeal.

2. The reason attributed by the revision petitioner / appellant for occurrence of



delay in filing the first appeal before the first appellate Court was that he was down with jaundice, fever and certain other ailments. His application seeking leave of the appellate court to condone the delay came to be dismissed by the first appellate Judge, on the ground that the revision petitioner has not produced any medical evidence and that the limitation provided is a substantive law.

3. This Court heard both sides. While the counsel for the revision petitioner stuck to his ground for seeking condonation of delay, the respondents submitted that the law should not aid litigants lacking diligence.

4.1 It is true that law of limitation put the party in default of its prescription to a definite disadvantage. It is also true that the Court may not be charitable to a defaulter. However, this cannot be construed as an inflexible formula as in mathematics. Law is not intended for application in a forensic lab in abstraction but is enacted or evolved to regulate human affairs. It is indispensable for the one who administers law not to know the men for whom it is intended - their life and life style, their general mindset and attitude, their affluence and poverty. The discretion is still vested with the Court to decide the justness of cause alleged. Wherever the Court is granted a discretionary power to do certain



C.R.P.No.2816 of 2019

things, then the exercise of such discretionary power is decided by the facts and circumstances of each particular case.

4.2 Given the context in which the present revision is set, and given the fact that the delay cannot be considered as inordinate, and given the fact that the suit is only for bare injunction, and also given the fact that the failure to file an appeal in time does not found to have altered the position of the respondents in any way, this Court deems it appropriate to condone the delay of 217 days that had intervened in preferring the first appeal by the revision petitioner. The Limitation Act can be considered as a substantive law only where it does not leave the discretion for the Court for condoning the delay, but not otherwise.

5. Necessarily, the revision has to be allowed, but to an extent it has inconvenienced the respondents, the same needs to be compensated in terms of costs. Accordingly, this revision is allowed, subject to the revision petitioner paying a cost of Rs.5,000/- to the respondents on or before 5.7.23.

Post the matter for reporting compliance on 5.7.'23.



C.R.P.No.2816 of 2019

14.03.2023

WEB COPY

Index : Yes / No

Speaking order / Non-speaking order
ds

To:

- 1.The Principal District Judge
Chengalpattu.
- 2.The Section Officer
VR Section, High Court, Madras.



WEB COPY



C.R.P.No.2816 of 2019

N.SESHASAYEE.J.,

ds

C.R.P.No.2816 of 2019

14.03.2023