



C.R.P.(MD) No.691 of 2023

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THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.08.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

C.R.P.(MD)No.691 of 2023

Saminathan

... Petitioner

Vs.

1.Posangu

2.Anbalagan

3.Veeramuthu

... Respondents

Prayer :- Petition filed under Section 115 of the Code of Civil Procedure, to call for the records relating to I.No.82 of 2021 in O.S.No.235 of 2012 on the file of the District Munsif Court, Pudukkottai, dated 15.12.2022 and set aside the same and allow this civil revision petition.

For Petitioner : Mr.N.Balakrishnan

For Respondents : Mr.L.Siva



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ORDER

The above revision is filed by the petitioner/plaintiff against the order passed in I.A.No.82 of 2021 in O.S.No.235 of 2012 on the file of the District Munsif Court, Pudukkottai, dated 15.12.2022.

2. The above suit in O.S.No.235 of 2012 was filed by the petitioner for the reliefs of declaration and permanent injunction. The said suit was dismissed for default on 11.07.2016 for non-appearance of the petitioner/plaintiff. Thereafter, the petitioner filed an application in I.A.No.82 of 2021 for condonation of delay of 1295 days in filing an application to restore the above suit. The same was resisted on the side of the respondents/defendants on the ground that there is a delay of more than six years. The petitioner stated that he had suddenly fallen ill and as a result he was unable to attend the Court to proceed with the suit. However, no medical records produced to establish his contention. The trial Court, upon considering the averments made in the counter affidavit and arguments advanced by the respective counsel, dismissed the petition



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by stating that no sufficient cause is shown by the petitioner to condone the delay of 1295 days. Against which, the present civil revision petition is preferred by the petitioner.

3. The learned counsel for the petitioner/plaintiff would submit that the petitioner was affected by jaundice and he was bed ridden for the same. Therefore, there was a huge delay of 1295 days. However, the trial Court, without considering the contention made by the petitioner in his petition, erroneously dismissed the above application. To support his contention, he relied upon the decision reported in **2017 (3) CTC 445**, in which, it was held that the delay of 1202 days is huge, but in the matter of condoning the delay, there is shift in the approach of the Court. It may be a shifting jurisprudence. The attitude of the Judges differ in tune with the change in time. It must have change. If it is not, it will bar the growth of law. That is how there is march of law. Hence, he prayed to allow this revision.



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4. On the other hand, the learned counsel appearing for the respondents/defendants would submit that the petitioner has wantonly left the suit idle for nearly six years and has now come forward with this vexatious petition to restore the suit. Further, he has not produced any medical certificate and other documents for the continuous illness and no sufficient reason is stated by the petitioner to condone the delay of 1295 days. Therefore, the trial Court has rightly dismissed the application, which was called for no interference.

5. Heard on both sides and records perused.

6. Admittedly, there is a delay of 1295 days in filing the petition to restore the suit. The issue of delay has been dealt with by the Hon'ble Apex Court and rendered that on sufficient cause shown by the parties, the Court must see liberal construction in allowing the petition and sufficient opportunities should be given to the parties to putforth their case. However, in this case, though the petitioner has stated that he was suffering from illness, no single piece of evidence has been produced to



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establish his contention. Therefore, in the absence of sufficient and good cause, the delay cannot be condoned. Therefore, no interference calls for in the findings of the lower Court. Hence, this Civil Revision Petition is dismissed. No costs.

11.08.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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To

The District Munsif,
Pudukkottai.



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K.GOVINDARAJAN THILAKAVADI, J.

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