



C.R.P(NPD)(MD).No. 2285 of 2018

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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED : 02.08.2023**

**CORAM**

**THE HONOURABLE MR.JUSTICE C.KUMARAPPAN**

**C.R.P(NPD)(MD).No. 2285 of 2018**

Rani

... Petitioner

Vs

Bhuvaneswari

....Respondent

**PRAYER:** Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Fair and Decreetal order, dated 21.01.2017 in I.A. No. 74 of 2016 in O.S. No. 9 of 2013 on the file of the District Munsif Court, Paramakudi by allowing this Civil Revision Petition.

For Petitioner : Mr.M.S.Jeyakarthik

For Respondent : Mr.P.T.S.Narendravasan



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### **ORDER**

To set aside the fair and decretal order, dated 21.01.2017 passed in I.A.No. 74 of 2016 in O.S. No. 9 of 2013 passed by the learned District Munsif, Paramakudi, the revision petitioner has filed this Civil Revision Petition before this Court.

2.The petitioner is the plaintiff and the respondent is the defendant before the trial Court. For the sake of convenience, the parties are referred to as per the litigative status in the suit.

3.The brief facts which give rise to the filing of this civil revision petition are as follows:

(i)The plaintiff has filed a suit for declaration and injunction against the defendant/respondent herein, based upon the sale deed, dated 10.04.2008, patta transfer deeds 24.07.2008 and tax receipts. The suit was hardly contested by the defendant on the ground that she is also having title over the suit property, based upon various sale deeds of the year 2008.



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(ii) Such being the case, when the suit was posted for trial, due to non-appearance of plaintiff, suit was dismissed for default on 05.08.2014. However, there occurred a delay of 487 days in filing an application for restoration. When the plaintiff filed an application for delay condonation, the same was resisted by the respondent.

(iii) The plaintiff has stated in his affidavit that delay has occurred only because of her suffering from jaundice and that she was taking treatment as inpatient till the date of filing the condonation of delay application. The said application was resisted by the defendant on the ground that the reason assigned by the plaintiff is false. The defendant also would contend that even in the previous occasion, similar application was filed and delay was condoned. Eventually, the trial Court has disbelieved the contention of the petitioner and ultimately, rejected the application.

4.I have given my anxious consideration to the either side submission.



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5.From the submission of either side, this Court is able to find that in the suit there is conflict in respect of the ownership of suit property, based upon the respective title deeds of the plaintiff and defendant.

6.As rightly observed by the Court below, in the delay condonation application no document has been filed by the petitioner/plaintiff to prove such a long delay. However, having considered the nature of suit and the issue to be adjudicated in the trial, this Court is of the view that if delay is not condoned, then rights of both parties will be put in jeopardy and there will be everlasting animosity between them.

6.It is settled principle of law that powers to condone the delay under Section 5 of Limitation Act is elastic enough to give substantial justice to the parties to *lis*. Though the petitioner did not file any document to substantiate her absence, this Court is inclined to allow the revision petition. However, to compensate the hardship faced by the respondent in the interregnum, this Court deem it fit to impose cost.

7.In the result, this Civil Revision Petition is allowed on



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payment of cost of Rs.3,000/- (Rupees Three Thousand only) payable to the respondent, within a period of four weeks, from the date of receipt of a copy of this order, failing which, this Civil Revision Petition stands dismissed automatically without any further reference to the order of this Court. No costs.

8.At this juncture, the learned counsel for the respondent would urge this Court to give a time limit for disposal of the suit. Having considered the nature of suit and year of filing of the suit, the trial Court is directed to dispose the restoration application, and thereafter suit as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order. It is made clear that both the parties should co-operate for the earlier disposal.

**02.08.2023**

NCC : Yes / No  
Index : Yes / No  
Internet : Yes / No  
**PNM**

To



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- 1.The District Munsif, Paramakudi.
- 2.The Section Officer  
Vernacular Section,  
Madurai Bench of Madras High Court,  
Madurai.

**C.KUMARAPPAN, J.,**



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**ORDER IN**  
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