



C.R.P.(MD)No.320 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 06.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.320 of 2018

Manickam

... Revision Petitioner/
Petitioner/Plaintiff

-VS-

1. Ramasamy
2. Thaiyamuthu
3. Kandasamy

... Respondents/
Respondents/Defendants

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C, against the fair and decretal order dated 09.10.2017 in I.A.No.108 of 2016 in O.S.No. 483 of 2004 on the file of the learned Additional District Munsif, Lalgudi.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.P.Sivachandran – for R2 and R3
: No appearance – for R1

ORDER

The present Civil Revision Petition has been filed by the petitioner/
plaintiff under Section 115 of C.P.C, against the fair and decretal order, dated



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09.10.2017, in I.A.No.108 of 2016 in O.S.No.483 of 2004 on the file of the learned Additional District Munsif, Lalgudi.

2. The revision petitioner is the plaintiff before the trial Court. He has filed a suit for the relief of ejectment and for delivery of possession. While so, on 03.03.2014, the suit was dismissed for default. Hence, the petitioner filed the application for restoration of suit along with delay condonation application to condone the delay of 668 days. The reason assigned for condonation of delay is that the petitioner was suffering from Jaundice.

3. However, the third respondent in his counter statement, denied the statement of the petitioner, and contended that the very reason assigned by the petitioner is not with in the contour of the definition “sufficient cause”. After hearing both sides, the learned trial Judge on the admission the petitioner during cross examination that, the petitioner is not aware as to when he was affected with Jaundice, the trial Court disbelieved the statement of the petitioner and has ultimately dismissed the said application.



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4. The learned counsel for the revision petitioner would submit before this Court that, apart from the infection of Jaundice to the petitioner, he was also aged about 70 years, at the relevant time and that the very aging also could independently be taken as sufficient cause for condonation of delay, besides Jaundice. The very argument of the learned counsel for the petitioner is very much rationale and this Court is in full agreement with the submission of the learned counsel for the petitioner.

5. Accordingly, the very order passed by the trial Court dismissing the application is liable to be interfered with. However, this Court would like to test to the *bonafide* of the petitioner, while allowing this Civil Revision Petition.

6. In the result, this Civil Revision Petition stands allowed thereby condoning the delay, on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondents within a period of four weeks from the date of receipt of the copy of this order, failing which, this Revision Petition shall stand dismissed without any further reference to this Court.



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7. At this juncture, the learned counsel on either side seeks the indulgence of this Court for the early disposal of the case, since the matter is of the year 2004. Hence, the learned trial Judge is directed to dispose of the case as expeditiously as possible within the time frame of six months from the date of receipt of the copy of this order. There shall be no order as to costs.

06.07.2023

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

1. The Additional District Munsif,
Lalgudi.



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C.KUMARAPPAN,J.

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