



C.R.P.(MD).No.8 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 06.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.8 of 2018

and

C.M.P(MD) No.43 of 2018

Arulmigu Sri Vembadi Sudalaimadsamy Deity
Arulmigu Sri Vembadi Sudalaimandasamy Kovil,
Kottarakurichi,
Srivaikuntam Taluk,
Thoothukudi District
Through its Paramparai Tharmakarthar/Poosari
Muthukaruppan @ Velayutham
S/o.Late Theivathadiya Pillai,
Door No.1/103, Utchimahali Amman Kovil Street,
Kottarakurichi,
Srivaikuntam Taluk.

... Revision Petitioner/
Petitioner/Plaintiff

-VS-

The Government of Tamil Nadu
Through its District Collector,
Korampallam,
Thoothukudi District.

... Respondent/
Respondents/Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C, against the fair and decretal order made in I.A.No.239 of 2017 in O.S.No.219 of 2011, dated 23.06.2017, on the file of the District Munsif Court,



C.R.P.(MD).No.8 of 2018

Srivaikundam.

For Petitioner : Mr.S.Vellaichamy

For Respondent : Mr.G.Suriyananth
Additional Government Pleader

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 made in I.A.No.239 of 2017 in O.S.No.219 of 2011, dated 23.06.2017, on the file of the District Munsif Court, Srivaikundam.

2. The revision petitioner is the plaintiff before the trial Court. He filed a suit for declaration and consequential injunction.

3. According to the petitioner, the suit was dismissed for default on 28.06.2016. However, he has filed an application for restoration with a delay of 82 days. The petitioner has prayed the trial Court to condone the delay, on the ground that he was suffering from fever and leg pain. However, the learned trial Judge, while rejecting the plea of the petitioner, relied upon the various Circulars of the High Court.



C.R.P.(MD).No.8 of 2018

WEB COPY

4. This Court has perused the R.O.Cs, which have been referred to by the learned trial Judge. In the above R.O.Cs, this Court has directed the District Judiciary to dispose of the old matters in a time bound manner. However, in the impugned order, though the learned trial Judge referred all the circulars, did not advert any reasons as to why she has disbelieved the statement of the petitioner.

5. Here the very delay is only 82 days. Further what the petitioner wants an order on merit. Every one may affect by illness, and in such an event there may be some delay. It is a settled proposition of law that the word “Sufficient Cause” shall receive a liberal construction, so as to advance substantial justice. At this juncture, it is useful to refer the judgment of the Hon'ble Supreme Court reported in *AIR 1969 SC 575 (Shakuntala Devi Jain Vs Kuntal Kumari)*.

6. Therefore, this Court is of the considered opinion that the impugned order is liable to be interfered with, thereby, allowing the application for condoning the delay of 82 days. However, this Court would like to test to the



C.R.P.(MD).No.8 of 2018

bonafide of the petitioner by awarding costs.
WEB COPY

7. In the result, this Civil Revision Petition stands allowed thereby condoning the delay, on condition that the petitioner shall pay a sum of Rs.2,000/- (Rupees Two Thousand only) to the Tamil Nadu State Legal Services Authority, Madurai Bench of Madras High Court, Madurai, within a period of four weeks from the date of receipt of the copy of this order, failing which, the Civil Revision Petition stands dismissed without any further reference to the order of this Court. Both parties are directed to co-operate for the early disposal of the case, since the matter is of the year 2011. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

06.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
ebsi



C.R.P.(MD).No.8 of 2018

WEB COPY

To

1. The District Munsif Court,
Srivaikundam.
2. The District Collector,
Korampallam,
Thoothukudi District.

Copy to:

1. The Registrar (Judicial)
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



C.R.P.(MD).No.8 of 2018

C.KUMARAPPAN,J.

ebsi

C.R.P(NPD)(MD)No.8 of 2018

06.07.2023