



C.R.P.(MD).No.2671 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.2671 of 2018

Chellathai ... Petitioner/Petitioner/Plaintiff

-vs-

Singaram ... Respondent/Respondent/
Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Thirupathur at Sivagangai District in I.A.No.492 of 2018 in O.S.No.165 of 2010, dated 09.10.2018.

For Petitioner : Mr.N.Dilip Kumar

For Respondent : Mr.T.S.Mohamed Mohideen

ORDER

The present Civil Revision Petition has been filed by the petitioner against the rejection of an application for condoning the delay of 300 days.



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2. The petitioner herein is the plaintiff and the respondent herein is the defendant before the Court below.

3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. According to the learned counsel appearing for the petitioner before the Court below the respondent has not raised any serious objection for condoning the delay, and what they wanted is cost to compensate the hardship. However, the trial Court on the finding that there is no sufficient cause, has wrongly dismissed the application.

5. Per contra, the learned counsel appearing for the respondent would strongly object the statement that the respondent has not raised any serious objection before the trial Court.

6. This Court has given anxious consideration to the submissions of the learned counsel on either side.



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7. The learned counsel for the petitioner has invited the attention of this Court about the observation made by the Court below, in respect of an endorsement made by the respondent to the effect that the application may be allowed on payment of cost.

8. Therefore, it is apparent that the respondent/defendant had no objection in allowing the application. However, the trial Court has found that there is no sufficient cause to allow the application. On perusal of the affidavit filed before the Court below the petitioner has stated in the affidavit that she has been suffering from ailment and also she is aged about 58 years. This Court is of the view that, when the respondent himself had no objection, the above reasons are sufficient cause and this Court is inclined to allow the application. However, to compensate the hardship faced by the respondent herein, this Court is inclined to award a cost of Rs.5,000/- (Rupees Five Thousand only) to the respondent.

9. In the result, this Civil Revision Petition is **allowed** on condition that the petitioner shall pay a sum of Rs.5,000/-(Rupees Five Thousand only) to



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the respondent within a period of four weeks from the date of receipt of the copy of this order, failing which, this Civil Revision Petition stands dismissed without any further reference to this Court. There shall be no order as to costs.

09.08.2023

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

1. The District Munsif cum Judicial Magistrate,
Thirupathur,
Sivagangai District.



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C.KUMARAPPAN,J.

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