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C.R.P.(NPD).No.2348 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.2348 of 2021

Anbazhagi

... Petitioner

vs

Balachandiran

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Un-numbered Docket Order dated 13.03.2020 made in I.A.No. of 2020 in I.A.No. of 2020 and I.A.No. of 2020 in A.S.No.13 of 2018 in O.S.No.83 of 2009 on the file of the learned Subordinate Judge, Tittagudi.

For Petitioner : Ms.B.N.Sivagamasundari

For Respondent : Mr.A.Velmurugan

ORDER

The Civil Revision Petition is filed challenging the order passed by the First Appellate Court dismissing the unnumbered I.A.No. of 2020 to condone the delay of 8 days in filing review application in unnumbered I.A.No. of 2020 in A.S.No.13 of 2018 on the file of the Subordinate Court, Tittagudi.



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2. While considering the petition to condone the delay of 8 days in filing review application by impugned order, the First Appellate Court dismissed the main review application itself on the ground that power of review is not available to it. It is observed by the First Appellate Court that power is only available for High Courts and Supreme Court and other Courts are not entitled to review its own order.

3. The said reasoning given by the First Appellate Court is vitiated by patent error. All the Civil Courts are entitled to review its own judgement under Section 114 of the Code of Civil Procedure. Therefore, the First Appellate Court ought to have considered the review application on merits.

4. It appears that there is a delay of 8 days in filing review application. While considering petition to condone delay in filing review application, instead of considering sufficiency of reasons assigned by petitioner, the First Appellate Court erroneously went to the maintainability of review application and decided it erroneously as not maintainable. Hence, the impugned order is set aside. The First Appellate Court is directed to consider the condone delay



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petition afresh. If delay is condoned, then the review application shall be numbered and the same shall be disposed of on merits.

5. With this clarification, the Civil Revision Petition is allowed. Having regard to the fact that the judgement sought to be reviewed was passed on 11.07.2019, the First Appellate Court is directed to consider the condone delay petition and pass final order as expeditiously as possible. No costs.

21.02.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

To

The Subordinate Judge,
Tittagudi.



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S.SOUNTHAR, J.

dm

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