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C.R.P.NPD.No.2401 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.09.2024

CORAM

THE HONOURABLE Mr. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.NPD.No.2401 of 2024

and

C.M.P.No.12560 of 2024

Baggiyam @ Bagiyalakshmi

... Petitioner

Vs

1. Ravichandran @ Ravi
2. Ravindran
3. Rajendran
4. Guna

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, against the Fair and Decretal Order dated 11.01.2024 made in I.A.No.1 of 2022 in O.S.No.381 of 2017 on the file of the III Additional District Judge, Coimbatore.

For Petitioner : Mr.A.Thiyagarajan

For Respondents : Mr.R.Raja Pandian



C.R.P.NPD.No.2401 of 2024

WEB COPY

ORDER

This Civil Revision Petition is filed seeking to set aside the fair and final order, dated 11.01.2024 in I.A.No.1 of 2022 in O.S.No.381 of 2017 on the file of the III Additional District Judge, Coimbatore, dismissing the petition seeking to condone the delay of 1533 days in filing a petition to restore the suit.

2. The petitioner had filed P.O.P.No.131 of 2014 under Order 33 Rule 1 and Section 151 of C.P.C., praying leave of the Court to sue as a pauper and exempt her from paying the Court fees. The trial Court, by order dated 21.08.2017, allowed the petition and directed the Office to take the suit on file. Subsequently, the suit was taken on file in O.S.No.381 of 2017 and the petitioner was directed to pay batta. However, since there was no representation for the petitioner, the suit came to be dismissed for default on 13.11.2017.



C.R.P.NPD.No.2401 of 2024

WEB COPY

3. The petitioner had contended that originally, P.O.P.No.131 of 2014 was filed through one Advocate, Mr.N.Mohankumar and later, a change of vakalat was filed on behalf of the petitioner by one Mr.Rameshkumar, Advocate on 18.01.2016. The P.O.P. was allowed and the main suit in O.S.No.381 of 2017 was taken on file in the name of her previous counsel, Mr.Mohankumar. The subsequent counsel, Mr.Rameskumar had no knowledge about the same and the suit was dismissed on 13.11.2017 for not taking steps. The petitioner would further submit that since there was no proper communication from the Court below, there had been a delay of 1533 days in filing the petition to restore the suit. Challenging the same, the present revision has been filed.

4. The learned counsel for the petitioner would submit that the petitioner/plaintiff, being a destitute woman, filed a Pauper Original Petition through Mr.Mohankumar, Advocate. Subsequently, since the said



C.R.P.NPD.No.2401 of 2024

WEB COPY

Mr.Mohankumar did not follow up the case, she handed over the case to Mr.Rameshkumar, Advocate. The said Mr.Rameshkumar also did not follow up the case properly due to inadequate communication. As the petitioner was an illiterate and poor woman, she was unable to follow up the matter, thereby the suit came to be dismissed for not taking steps on 13.11.2017. During the year 2020, since the Courts were closed due to covid pandemic, she could not contact her counsel, Mr.Rameshkumar and thereby there was a delay of 1533 days in filing the petition to restore the suit. He would further submit that the cause of the delay should be taken into consideration and not the length of delay and the petitioner has got a good case and that if the suit is not restored to file, the petitioner would be put to undue hardship. He would further submit that the delay may be condoned on imposition of costs and terms and the suit may be restored. He would also submit that the petitioner is ready to cooperate for the speedy disposal of the case.

5. Per contra, the learned counsel appearing for



C.R.P.NPD.No.2401 of 2024

WEB COPY

respondents/defendants vehemently opposed to condone the delay, stating that the suit came to be dismissed for not taking steps as early as on 13.11.2017. The trial Court, finding that the subsequent counsel, Mr.Rameskumar, ought to have followed the matter vigilantly and also finding that the delay was huge, had rightly dismissed the application. He would seek to dismiss the Civil Revision Petition.

6. Heard the learned counsel on both sides and perused the materials available on record.

7. The petitioner is a destitute woman who filed a Pauper O.P and it came to be allowed on 21.08.2017. However, the records would show that the subsequent order dismissing the suit for not taking steps, has been issued in the name of her erstwhile counsel Mr.Mohankumar. This Court is of the opinion that, due to certain discrepancies, the order has not been communicated to the subsequent counsel, Mr.Rameshkumar. Further, since the petitioner is a destitute woman, this Court is of the view that a final



C.R.P.NPD.No.2401 of 2024

WEB COPY

chance may be given to her and that the delay can be condoned on imposition of costs for the inconvenience caused to the respondents/defendants.

8. In view of the foregoing reasons, the Civil Revision Petition stands allowed. The order dated 11.01.2024 passed in I.A.No.1 of 2022 in O.S.No.381 of 2017 is set aside. The delay of 1533 days is condoned on condition that the petitioner/plaintiff pays a sum of Rs.10,000/- (Rupees ten thousand only) to the respondents/defendants, within a period of two weeks from the date of receipt of a copy of this order. On such payment of costs, the suit shall stand restored to file. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.09.2024

Index : Yes/No
Speaking order/non-speaking order
srn
To

6/7



C.R.P.NPD.No.2401 of 2024

1. The III Additional District Judge, Coimbatore.
2. The Section Officer, V.R.Section, High Court, Madras.

A.D.JAGADISH CHANDIRA, J.,

srn

C.R.P.NPD.No.2401 of 2024
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