



C.R.P.(NPD).No.617 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.617 of 2021

and

C.M.P. No.5331 of 2021

Mr. R. Raja

... Petitioner

Versus

Mr. G. Natarajan

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 22.10.2019 made in I.A.No.5722 of 2017 in O.S.No.8415 of 2011 on the file of the learned V-Assistant Judge, City Civil Court at Chennai.

For Petitioner : Mr. M. Ilaneshiyan,
for Mr. G. Ethirajulu.

For Respondent : Notice returned with endorsement as
No such person

ORDER

This Civil Revision Petition is filed challenging the order dated 22.10.2019 passed by the Court below allowing the petition in I.A.No.5722 of 2017 filed by the respondent to condone delay of 508 days in filing the



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application for restoration of the suit in O.S.No.8415 of 2011, which was dismissed for default on 11.02.2014.

2. The respondent herein filed the above said suit seeking a permanent injunction restraining the petitioner/defendant from acting as a Trustee of the Srimathi Padmavathi Ammal Chairtable Trust and mandatory injunction, directing the petitioner to hand over all the papers and documents relating to the trust to the respondent/plaintiff. The said suit was dismissed for default on 11.02.2014 for non-appearance of the respondent/plaintiff. Thereafter, the respondent/plaintiff filed an application for restoration of the suit and to condone the delay of 508 days in filing the restoration petition. The instant application was filed on 15.07.2015 and in the affidavit filed in support of the condone delay petition, it was stated by the respondent/plaintiff that due to ill-health on his old age, he could not meet his counsel and instruct him regarding his inability to attend the Court. The Court below had taken a liberal approach in considering the condone delay application and condoned the delay by imposing costs of Rs.2,000/-.



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3. When the Trial Court accepted the reason assigned by the respondent for delay and exercised its discretion in favour of the respondent in order to give an opportunity to the respondent/plaintiff to get the suit to be decided on merits, this Court is not inclined to interfere with the exercise of discretion. Hence, I do not find any irregularity or illegality on the order of the Court below.

4. Accordingly, this Civil Revision Petition is dismissed by confirming the order dated 22.10.2019 made in I.A.No.5722 of 2017 in O.S.No.8415 of 2011 on the file of the learned V-Assistant Judge, City Civil Court, Chennai. No costs. Consequently, the connected miscellaneous petition is also closed.

14.02.2024

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

klt

To:

The V-Assistant, City Civil Court, Chennai.



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S. SOUNTHAR. J.,

klt

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