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C.R.P.(NPD) No.4506 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM

THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.4506 of 2024

1. Archdiocese of Madras-Mylapore Society,
Rep. by its duly appointed Power Agent,
Having Office at "Arch Bishop's house",
No.41, Santhome High Road,
Mylapore, Chennai-600 004.

2. Annai Velankanni Church,
Rep. by its Rector and Parish Priest,
Having Office at Annai Velankanni Church,
Besant Nagar, Chennai-600 090.

... Petitioners/Petitioners/Plaintiffs

-VS-

M.Alphonse

... Respondent/Respondent/Defendant

(Cause Title accepted vide order dated 03.10.2024)

Prayer: Civil Revision Petition filed under Section 115 of CPC to allow the Civil Revision Petition and to set aside the order dated 12.02.2024 made in I.A.No.9983 of 2018 in I.A.No.2209 of 2018 in O.S.No.5037 of 2015 on the file of the III Assistant City Civil Court at Chennai.

For Petitioners : M/s.C.Auxilia
For Respondent : No Appearance



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ORDER

Challenging the order dated 12.02.2024 made in I.A.No.9983 of 2018 in I.A.No.2209 of 2018 in O.S.No.5037 of 2015 on the file of the III Assistant City Civil Court at Chennai, in and by which, the application filed for condoning the delay of 2 days was dismissed, the present Revision Petition has been filed.

2. A suit had been filed for recovery of possession, damages and arrears and when the suit was posted on 18.12.2017, the same was dismissed for default. Immediately, an application had been taken out for restoration of the suit on the ground that the counsel had wrongly noted the date as 19.12.2017 instead of 18.12.2017 and therefore, there was a delay of two days. The application for restoration came to be dismissed by the Trial Court, holding that the plaintiff was not vigilant and reason is also not justified.



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3. Heard the learned counsel for the Revision Petitioners. There is no representation on behalf of the respondent.

4. The Trial Court dismissed the application filed to condone the delay of 2 days in a mechanical manner on the reasoning that proper explanation was not adduced by the revision petitioners, despite the reason given by the revision petitioner that there was a wrong notation of the date of adjournment as 19.12.2017 in lieu of 18.12.2017. The Trial Court ought to have given a liberal approach in view of the fact that the application to restore the suit was filed by the revision petitioners with immediate effect. The act of the Trial Court in shutting the rights of the parties on technicalities, by way of penadatic and rigid view is not really in the interest of advancement of substantial justice and is not approved by this Court. Hence, the order of the Trial Court has no legs to stand and is liable to be set aside.

5. Accordingly, this Civil Revision Petition is allowed and the



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order dated 12.02.2024 made in I.A.No.9983 of 2018 in I.A.No.2209 of

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N.SATHISH KUMAR,J.,
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2018 in O.S.No.5037 of 2015 by the III Assistant City Civil Court, Chennai,
with a direction to the Trial Court to decide the suit on merits as
expeditiously as possible. No costs.

26.11.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
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