



C.R.P. No.2872 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.08.2024

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. No.2872 of 2024

T.Subramanian

... Petitioner

vs

R.Chellamuthu

... Respondent

Prayer: Petition filed under Article 227 of the Constitution of India against the fair and decretal order made in I.A. No.1 of 2023 in A.S. CFR. No.3925 of 2023 in O.S. No.416 of 2010 dated 30.11.2017 on the file of the Subordinate Judge, Dharapuram.

For petitioner

: Ms.A.Madhumathi

ORDER

This revision has been filed against the order dated 30.11.2017 passed by the learned Sub Judge, Dharapuram in I.A. No.1 of 2023 in A.S. CFR. No.3925 of 2023 in O.S. No.416 of 2010, dismissing the Interlocutory Application in I.A. No.1 of 2023 to condone the delay of 2004 days in filing



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the appeal against the decree and judgment in O.S. No.416 of 2010 dated 30.11.2017 passed by the learned District Munsif, Dharapuram.

2.The case of the petitioner is that he has filed an Original Suit in O.S. No.416 of 2010 seeking for a declaration against the respondent and the suit came to be dismissed on 30.11.2017. It is the further case of the petitioner that he fell ill from January 2018 and that he availed continuous treatment in Velammal Hospital, Madurai and also in Coimbatore for Angiogram and blood pressure and that he was taking rest at his house and he went to revenue enquiries and after his recovery, he contacted his Advocate, who had informed about the disposal of the appeal and thereby, he has filed an application to condone the delay of 2004 days in filing the appeal against the decree and judgment in O.S. No.416 of 2010 dated 30.11.2017 passed by the learned District Munsif, Dharapuram.

3.The respondent had filed a counter in the above application contending that the petitioner had been attending all the functions including marriages since 2017 and that the petitioner had been attending revenue



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enquiries and that he had also filed suits in O.S. Nos.101 of 2022 & 22 of 2023 before the District Munsif Court, Dharapuram for the very same reliefs, after the dismissal of the suit in O.S. No.416 of 2010. Only in order to drag the issue, the petitioner has filed the application in I.A. No.1 of 2023 with huge delay. Therefore, the learned Appellate Judge, finding that the petitioner has not shown any sufficient cause for condoning the delay of 2004 days in filing the appeal against the decree and judgment in O.S. No.416 of 2010 and also finding that the petitioner was not vigilant, had dismissed the application and against which, the present revision has been filed.

4.Learned counsel for the petitioner would submit that the petitioner is aged about 74 years and he has been taking treatment in Velammal Hospital, Madurai from the year 2018 and apart from that, he was also taking treatment for his ailment at Coimbatore and thereby, he seeks to set aside the order passed by the learned Appellate Judge.



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5.The petitioner has produced the typed set of papers containing the medical records of the petitioner. Having gone through the affidavit filed before the Trial Court and the medical records, this Court is of the opinion that the petitioner has not shown any sufficient cause for condoning the huge delay of 2004 days in filing an appeal against the decree and judgment. Further it is stated that the petitioner had filed two suits in O.S. Nos.101 of 2022 & 22 of 2023 before the District Munsif Court, Dharapuram for the very same reliefs, after the dismissal of the suit in O.S. No.416 of 2010.

6.Under such circumstances, the petitioner cannot claim that due to illness, he was not able to file an appeal in time. Therefore, I do not find any illegality or infirmity in the order passed by the Appellate Judge. Accordingly, this revision petition stands dismissed. No costs.

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Index: Yes/No
vga



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The Subordinate Judge, Dharapuram



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A.D.JAGADISH CHANDIRA, J.

vga

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