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C.R.P. No. 3611 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.09.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.3611 of 2024
and C.M.P.No.19630 of 2024

Tamil Nadu Private Drivers Wives Association,
(Reg No.205/1987)
Represented by its President,
R.V.Leena Josaiah

... Petitioner

Vs

Krishnan @ Balakrishnan

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the order passed in I.A.No.1 of 2023 in O.S.No.2271 of 2001 dated 28.02.2024 on the file of the learned XVII Assistant City Civil Court, Chennai.

For Petitioner : Mr.J.Siddhardhan

ORDER

This Civil Revision Petition has been filed against the order passed by the XVII Assistant City Civil Court, Chennai, on 28.02.2024 in I.A.No.1 of 2023 in O.S.No.2271 of 2001.



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2. The brief facts of the case is that the suit in O.S.No.2271 of 2001 was filed by the petitioner/plaintiff before the XVII Assistant City Civil Court, Chennai, against the respondent/defendant, seeking for a permanent injunction restraining the respondent/defendant from interfering the peaceful possession and occupation of the suit schedule premises. When the suit was listed for trial in Special list, the plaintiff did not appear before the trial Court and failed to let in evidence, therefore, the said suit was dismissed for default on 11.07.2003. Therefore, the petitioner/plaintiff has filed an application in I.A.No.1 of 2023 under Section 5 of the Limitation Act r/w 151 of CPC to condone the delay of 7078 days in filing the petition to set aside the order of dismissal. The learned trial Judge, has dismissed the application on 28.02.2024 stating that the petitioner has not properly explained the reason for the huge delay. Aggrieved over the same, this present civil revision petition has been filed by the petitioner/plaintiff.

3. Learned counsel for the petitioner submitted that the petitioner/plaintiff has filed a suit in O.S.No.2271 of 2001 on the file of the XVII Assistant City Civil Court, Chennai and since the petitioner's counsel was admitted in intensive care



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unit due to his ill health and also due to lack of communication between the petitioner and her counsel's juniors, she was unable to appear before the trial Court, therefore, the suit was dismissed for default on 11.07.2003. Thereafter, the petitioner came to know about the status of the suit only in the year of 2023 and immediately, she has filed an application in I.A.No.1 of 2023 to condone the delay of 7078 days in filing the petition to set aside the order of dismissal, whereas, the trial Judge, without considering the reasons stated by the petitioner for such delay, had dismissed the same on 28.02.2024. He further submitted that the Court has got discretionary power to condone the delay of 20 years in filing the petition to restore the suit and the trial Court ought to have exercise the discretion. Thereby, he seeks to set aside the order dated 28.02.2024.

4. Heard the learned counsel for appearing for the petitioner and perused the materials available on record.

5. On perusal of record, it is seen that the suit filed by the petitioner/plaintiff for permanent injunction was dismissed for default on 11.07.2003 and the petitioner has filed a petition to condone the delay in filing the restore application



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after a period of 20 years. The trial Court found that the attitude of the petitioner would show that he had no interest in contesting the case from the date of dismissal till the date of filing the application on 03.03.2023 and the delay is 20 years and also holding that that the petitioner had not adduced any valid reason to condone the delay of 7078 days, had dismissed the application.

6. In view of the above, this Court is of the view that the trial Court had rightly found that the petitioner has not shown sufficient cause to condone the enormous delay of 7078 days and dismissed the application. Therefore, this Court does not find any illegality or infirmity in the order passed by the learned XVII Assistant Judge, City Civil Court, Chennai. Accordingly, the Civil Revision Petition stands dismissed. Consequently, the connected miscellaneous petition is also closed. No costs.

06.09.2024

Index : Yes / No
Neutral Citation : Yes / No
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To
The XVII Assistant City Civil Court, Chennai.



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A.D.JAGADISH CHANDIRA, J.

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