



C.R.P.[NPD]No.4381 of 2023
and C.M.P.No.26592 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.11.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.[NPD]No.4381 of 2023
and C.M.P.No.26592 of 2023

A.Divya

.. Petitioner

Vs.

1.V.Selvamani
2.S.Umamaheswari
3.S.Sundaravadivelu

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decreetal order dated 04.08.2023 made in I.A.No.1 of 2020 in O.S.No.177 of 2017 on the file of the learned Principal District Judge, Chengalpattu.

For Petitioner : Mr.Sathya

For R1 & R2 : Mr.T.M.Mano

For R3 : No Appearance

ORDER

This Civil Revision Petition has been filed seeking to set aside the order and decreetal order dated 04.08.2023 made in I.A.No.1 of 2020 in



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O.S.No.177 of 2017, on the file of the learned Principal District Judge,
Chengalpattu.

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2.The brief facts of the case are as follows:

The suit has been filed by the respondents 1 and 2/plaintiffs, who are the in-laws of the petitioner/2nd defendant. The respondents 1 and 2 have filed the suit contending that they are the absolute owners of the property. The petitioner herein suppressing her earlier marriage, has married their son/3rd respondent/1st defendant. The suit property was originally let out to the petitioner and the 3rd respondent for monthly rent. The 3rd respondent/husband of the petitioner has also filed an application in H.M.O.P.No.648 of 2017, on the file of the Subordinate Judge, Tambaram for nullity of marriage. Now, the petitioner is in occupation of the property. The suit filed by the respondents 1 and 2 was decreed ex-parte on 09.08.2018. The application has been filed by the petitioner to set aside the ex-parte order dated 09.08.2018, on the ground that she entrusted the matter to the Advocate in the year 2017. However, the Advocate failed to file the written statement and therefore, she was set ex-parte. On perusal of the



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entire records, the Trial Court dismissed the application filed by the petitioner to set aside the ex-parte order. Hence, the present Civil Revision Petition has been filed.

3.Learned counsel appearing for the petitioner submitted that the trial Court failed to consider the fact that the petitioner has filed a Domestic Violence case in D.V.No.18 of 2017, on the file of the Judicial Magistrate No.I, Tamabaram, against the 3rd respondent and the same is pending. Therefore, the petitioner claim right over the suit property. Further, the 3rd respondent has filed H.M.O.P.No.648 of 2017, after the filing of suit in order to evict the petitioner from the suit property. Hence, he prayed to allow the present petition.

4.Learned counsel appearing for the respondents 1 and 2 submitted that the Domestic Violence case is entirely different, which does not helps for the condonation of the delay. Even the written statement was filed by the petitioner, the only contention of the petitioner would be that she wants to be in possession of the suit property since the Domestic violence proceeding



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has been initiated. Be that as it may, there is no doubt that if the sufficient cause has been established to condone the delay, the length of the delay is not a matter. However, the pendency of the domestic violence case would not help the petitioner for condonation of the delay. Hence, he prayed for dismissal of the present application.

5.Heard the learned counsel appearing for the petitioner as well as the respondents 1 and 2 and perused the materials available on record.

6.On perusal of the entire affidavit filed by the petitioner, it is seen that the petitioner is not even aware of the nature of the order passed by the trial Court. In the affidavit of the petitioner, it is stated that the since the petitioner's earlier counsel failed to file the written statement, the petitioner was set ex-parte and the suit has been dismissed for default. But, the fact remains that the suit has been decreed ex-parte on 09.08.2018. The only reason given for the delay is that the petitioner's earlier counsel failed to file the written statement and hence, she has been set ex-parte. When the case is entrusted to the Advocate, it is the duty of the litigant to diligently follow up



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the case. A litigant who approaches to the Court must be diligent. He or she must take all steps to pursue his or her litigation. A litigant cannot take a evasive plea that once the case is entrusted with the advocate his or her work is over and the advocate will take care of the matter. Hence, the reason given by the petitioner for condonation of the delay is not satisfying. Thus, the order of the trial Court dated 04.08.2023 made in I.A.No.1 of 2020 in O.S.No.177 of 2017, on the file of the learned Principal District Judge, Chengalpattu stands confirmed. It is made clear that, if the petitioner succeed in the Domestic Violence case, the respondents are bound to obey the order made in D.V.No.18 of 2017 pending on the file of the Judicial Magistrate No.I, Tamabaram.

7.Accordingly, the Civil Revision Petition is dismissed. No costs.
Consequently connected miscellaneous petition is closed.

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

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N.SATHISH KUMAR, J.

rst

To:

The Principal District Judge,
Chengalpattu.

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