



C.R.P.No.4679 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 07..11..2024

Coram

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

Civil Revision Petition No.4679 of 2023

V..Kalavathi

..... Petitioner

-Versus-

D.Lakshmi

.... Respondent

Petition filed under Article 227 of the Constitution of India, praying to praying to set aside the fair and decretal order dated 30.08.2023 passed by the learned Subordinate Judge, Ranipet, Ranipet District, in I.A.No.1 of 2023 in O.S.No.320 of 2013.

For Petitioner : Mr.K.Venkatasubban

For Respondent : No appearance

ORDER

This civil revision petition has been filed challenging the order dated 30.08.2023 made in I.A.No.1 of 2023 by the learned Subordinate Judge, dismissing the application filed by the plaintiff under Section 5 of The Limitation Act, 1963, seeking to condone the delay of 517 days in filing the



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application for restoration.

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2. When the revision petition was listed on 05.11.2024, there was no representation on behalf of the respondent. Hence, the matter was directed to be listed today (07.11.2024). Even today, there is no representation on behalf of the respondent. Therefore, this court is inclined to proceed with the matter on merits.

3. The suit in O.S.No.320 of 2013 was filed by the revision petitioner for specific performance of an agreement of sale dated 14.11.2028 entered into between the revision petitioner (plaintiff) and the respondent (defendant); delivery of possession of the suit schedule mentioned property; and for permanent injunction restraining the defendant, her men, and agents from alienating or making any encumbrances over the suit schedule mentioned property. The said suit was dismissed for default of the revision petitioner on 04.03.2021. Thereafter, the revision petitioner filed an application in 2023 seeking to condone the delay of 517 days in filing the application for restoration of the suit, which was dismissed along with other applications or restorations of the suit, which were numbered as I.A.No.1 of 2023 and I.A.No.2 of 2023 on the ground that on the date when the suit was listed she was sick as she was affected by jaundice and was bedridden and therefore could not appear



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in court. Thereafter, due to the COVID-19 pandemic, she was advised by the doctors not to move out of the house. Hence, she could not file the restoration application immediately, and therefore, there was a delay. Both the applications were dismissed by the court below on merits by order dated 30.08.2023 holding that there was no sufficient cause. Hence, this revision.

4. Heard the learned counsel for the revision petitioner. Indisputably, the suit was dismissed on 04.03.2021 during the time which the COVID-19 pandemic. The COVID-19 lock down was extended up to February 2022. The limitation was also extended till February 2022. This aspect of the matter was not considered by the court below. In fact, in March 2021, the COVID-19 pandemic was at its peak, and State-wide lock down was imposed. The trial court had not at all taken into account those facts. The court below, taking note of the COVID-19 pandemic, ought to have given a liberal approach in condoning the delay in filing the restoration application. The court below had merely, on the basis of delay, dismissed the application. Even though the reason adduced for the delay had not been substantiated convincingly, considering the COVID19 Pandemic and the orders of the Hon'ble Supreme Court extending the period of limitation, this court is inclined to set aside the order of the court below and to condone the delay of 517 days in filing the



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application for restoration of the suit.

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In the result, the civil revision petition is allowed, and the common order dated 30.08.2023 made in I.A.No.1 of 2023 and I.A.No.2 of 2023 in O.S.No.320 of 2013 by the learned Subordinate Judge, Ranipet, is set aside, and the application in I.A.No.1 of 2023 is allowed, and the delay of 517 days in filing the application for restoration of the suit is condoned. The trial court shall re-hear the application in I.A.No.2 of 2023 and pass appropriate orders on merits within a period of two weeks from the date of receipt of a copy of this order as the order thereof was not passed on any merit and thereafter, proceed with further in the suit. The learned Subordinate Judge, Ranipet, is directed to dispose of the Original Suit, within a period of six months from the date of receipt of a copy of this order on its own merits and in accordance with law. No costs.

Index : yes / no
Neutral Citation : yes / no
Speaking / Non Speaking Order
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07..11..2024

To

1.The Subordinate judge, Ranipet, Ranipet District.



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N.SATHISH KUMAR.J.,

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