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C.R.P.No.4047 of 2019



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.4047 of 2019 and
C.M.P.No.26567 of 2019

Nagammal

... Petitioner

Vs.

Ramanujam

...Respondent

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, praying to set aside the fair and decretal order dated 26.10.2017 in I.A.No.773 of 2016 in O.S.No.457 of 2010 on the file of Additional district Munsif, Villupuram.

For Petitioner
For respondent

: M/s.R.Rajarajan
:Mr.C.Munusamy

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner seeking to condone the delay of 657 days in filing petition to restore the suit which was dismissed for default.

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2. The petitioner herein filed a suit for declaration of title and injunction against the respondent. The said suit was dismissed for default on 15.10.2014. Thereafter, the instant application has been filed to restore the suit with the delay on 31.08.2016. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that at the relevant point of time, he was suffering from severe Jaundice and had taken native treatment from his house and therefore, he was unable to attend the Court and prosecute the case. It is also stated in the affidavit that his failure to appear before the Court was not wilful but due to the above said reason.

3. The condone delay petition was dismissed by the Trial Court on the ground that the reason assigned by the petitioner was not sufficient to explain the delay of 657 days. Aggrieved by the same, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that since the petitioner had taken native treatment for his illness, he could not produce any



medical certificate before the Court to substantiate his claim of illness and treatment.

5. Having regard to the fact that the suit is one for title, this Court is inclined to take liberal approach while considering the reasons assigned by the petitioner for explaining the delay. In view of the reason assigned by the petitioner that he was suffering from Jaundice at the relevant point of time and he could not prosecute the case effectively, this Court is inclined to condone the delay by imposing cost on the petitioner.

6. Accordingly, the Civil Revision Petition stands allowed by setting aside the order passed by the Trial Court on condition that the petitioner shall pay a sum of Rs.10,000/- to the respondent by way of cost within a period of three weeks from today. Failing which, the Civil Revision petition shall stand automatically dismissed.

7. The petitioner is permitted to pay cost to the respondent by way of Demand Draft in the name of respondent and the same can be handed over to



C.R.P.No.4047 of 2023

the counsel for the respondent. In case, the condition is complied with by the petitioner within the time stipulated, the revision petition stands allowed and the Court below is directed to number the application filed by the petitioner to restore the suit and dispose it of on merits within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

14.02.2024

Index : Yes / No

Internet : Yes / No

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To

The learned Additional District Munsif, Villupuram



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C.R.P.No.4047 of 2019

S.SOUNTHAR, J.

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14.02.2024