



C.R.P(MD)No.813 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 05.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.813 of 2024

Kanimozhi

... Revision Petitioner / Plaintiff

Vs

1.Thangeswaran

2.Shanmugadasa @ Vivekanandan ... Respondents / Defendants

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the order dated 13.07.2023 made in I.A.No.1 of 2022 in O.S.No.212 of 2012 by the learned Additional District Munsif Court, Lalgudi, as illegal by allowing this Civil Revision Petition.

For Petitioner : Mr.T.Indrachithu

For Respondents : Mr.K.Vidya

ORDER

This Civil Revision Petition is filed to set aside the order dated 13.07.2023 made in I.A.No.1 of 2022 in O.S.No.212 of 2012 by the learned Additional District Munsif Court, Laslgudi, as illegal



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2. The facts in brief is that the suit in O.S.No.212 of 2012 was filed by the revision petitioner herein seeking the relief of permanent injunction and for costs against the respondent. The revision petitioner failed to appear before the trial Court when the matter was called for trial. So it was dismissed for default on 11.11.2014. To set aside the dismissal order, a petition was filed to condone the delay of 1719 days. That petition was dismissed against which this Civil Revision Petition is preferred by the plaintiff / petitioner.

3. In the affidavit filed in support of this petition, it has been stated that he entrusted the matter to one Muruganathan who was a practicing advocate. He informed the revision petitioner that she can appear before the Court on receiving the intimation from him. In the meantime, the husband was affected by knee pain and other ailments, so was taken to various places like Kerala, Tirupur and Pudukottai for treatment. But her husband could not recover from the illness. The Advocate Muruganantham died in a road accident. So they were taken care of the family of Muruganathan so that could not concentrate on the suit. After recovery from the illness, she contacted Lalgudi Court in June, 2019. At



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that time they came to know that one Godhandaraman, Advocate was engaged by Muruganantham. Only at that time, they came to know that the order of dismissal. Records were traced from the advocate office after much efforts. Hence there is a delay of 1719 days in filing the restoration application.

4. That was resisted by the respondents herein by filing a counter. The trial Court after hearing both sides, dismissed the petition observing that no particulars were furnished by the revision petitioner as to the dates and events pertaining to the illness of her husband. Even the petitioner was not able to say the name of the Doctor who treated her husband. Noting the revision petitioner's lethargic attempt in prosecuting the matter properly, the reason assigned was not accepted.

5. Even before this Court the revision petitioner reiterated the very same things and no ground substantiating the averment taken in the affidavit was shown. The suit filed in the year 2012 was dismissed for default on 11.11.2014. Now we are in 2024. After lapse of 12 years it appears that the revision petitioner wants to prosecute the matter. The main suit is one for permanent injunction. Now the revision petitioner



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states that taking advantage of the dismissal order, the respondents are even now trying to make disturbance. If any, new fresh cause of action has arisen, there can be no bar for the revision petitioner to file a suit for permanent injunction. That cannot be a reason for condoning the delay. Moreover, as mentioned above, the reason assigned by the revision petitioner is not supported by the evidence. Mere bald reasons are stated. Unless proper reasons are assigned, the petition could not have been allowed by the trial Court. In view of the above, I find no reason to interfere with the order dated 13.07.2023 made in I.A.No.1 of 2022 in O.S.No.212 of 2012 passed by the learned Additional District Munsif Court, Lalgudi.

6. With the above said, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

05.12.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

- 1.The Additional District Munsif Court, Lalgudi.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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