



C.R.P(MD)No.444 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.03.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.444 of 2024

Satheesh

... Petitioner

Vs

Vijayan

... Respondent

Prayer : Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order passed in I.A.No.1 of 2022 in O.S.No.49 of 2015, on the file of the Sub Court, Kuzhithurai, Kanyakumari District.

For Petitioner : Mr.SC.Herold Singh

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order passed in I.A.No.1 of 2022 in O.S.No.49 of 2015, on the file of the Sub Court, Kuzhithurai, Kanyakumari District.



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2. The facts in brief is that the suit in O.S.No.49 of 2015 is filed by the petitioner herein seeking the relief of declaration of title and for consequential injunction. The suit was dismissed for default on 07.10.2021. To restore the suit, he filed an application in I.A.No.1 of 2022 along with an application to condone the delay of 43 days in filing the restoration application. That came to be dismissed by the trial Court, upon which this Civil Revision Petition is preferred.

3. Learned counsel for the petitioner would submit that there was no inordinate delay on his part in filing the petition.

4. In the affidavit it has been stated by him that because of his illness he was not able to attend the Court and bring the witness on 07.10.2021. Except the above said bald statement, no other supporting documents is filed by the revision petitioner before the trial Court and that is the reason for the dismissal. According to him, he is ready to pay the cost to the respondent. The main suit is filed seeking declaration and for consequential injunction. One more opportunity may be given to him to contest the matter, in view of the request made by the petitioner, which is not seriously objected by the respondent.



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5. When the matter was taken up for hearing, learned counsel for the respondent would submit that a direction may be issued to the trial Court to restore the matter within a time stipulated by this Court.

6. The suit is of the year 2015. Therefore, a sum of Rs.5,000/- (Rupees Five Thousand only) to be paid by the revision petitioner to the respondent before the trial Court within a period of one week from the date of receipt of a copy of this order. On payment of the cost, the suit shall be restored to file. Considering the oldness of the matter, there shall be a direction to the learned Sub Court, Kuzhithurai, Kanyakumari District, to dispose of the suit by following this Court's circular in R.O.C.No.1599-A.2009/B5 dated 15.05.2009.

7. With the above direction, this Civil Revision Petition is disposed of. No costs.

22.03.2024

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No
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G.ILANGO VAN, J.

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To

- 1.The Subordinate Judge, Kuzhithurai, Kanyakumari District.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

ORDER
IN

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