



C.R.P(MD)No.716 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 16.12.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.716 of 2024

and

C.M.P(MD)No.3827 of 2024

C.Bala Dhandayuthabani

... Petitioner / 1st Defendant

Vs

1.City Benefit Fund (Kumbakonam) Ltd.,
represented by its Managing Director
having registered office at
No.70-A, Mutt Street, (Upstair)
Now functioning at
Door No.35, 36 and 37
Dr.Besant Road,
Kumbakonam Town.

... 1st Respondent / Plaintiff

2.K.Ramamoorthy

... 2nd Respondent / 2nd Defendant

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 04.01.2024 in I.A.No.1343 of 2023 in O.S.No.213 of 2003 on the file of the Principal Subordinate Court, Thanjavur and allow the Civil Revision Petition.

For Petitioner : Mr.K.Sekar

For Respondents : No appearance



C.R.P(MD)No.716 of 2024

WEB COPY

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 04.01.2024 in I.A.No.1343 of 2023 in O.S.No.213 of 2003 on the file of the Principal Subordinate Court, Thanjavur and allow the Civil Revision Petition.

2. The suit in O.S.No.213 of 2003 was filed by the revision petitioner against the respondent herein seeking the relief of recovery of Rs.1,16,113/- and for cost. Preliminary decree was passed as prayed for with costs and final decree application was filed before the Court that came to be returned to rectify the some defects. For representation of the petition, there is a 5483 days. That came to be dismissed, against which this Civil Revision Petition is preferred.

3. The reason for the delay is mentioned that one Mr.Karunanithi, Advocate, was looking after the case before the trial Court. The final decree application came to be returned due to some defects by order dated 26.02.2007. For compliance, two months time was granted. The papers were taken by Mr.Karunanithi from the office. But by over sight,

2/5



C.R.P(MD)No.716 of 2024

he forgot to re-present the same. Later, he stopped the practice also. He was under the impression that final decree application is pending before the Court. Mr.Karunanithi was unable to trace out the case bundle. It was finally traced out only on 24.04.2022. So there is a delay of 5483 days.

4. That was resisted by the respondent stating that final decree application itself is barred by limitation. No proper reason is assigned. The trial Court dismissed the petition observing that the reason assigned by the revision petitioner is not at all supported by any materials. There is a delay of 15 years which cannot be condoned without any proper reason. Against which this Civil Revision Petition is preferred.

5. Even at the time of revision, learned counsel for the revision petitioner has reiterated the grounds mentioned in the petition. Absolutely, there is no material on record to show that one Mr.Karunanithi was appearing for the revision petitioner before the trial Court and because of his fault only delay occurred. No affidavit was able to be produced by the revision petitioner from the concerned Advocate



C.R.P(MD)No.716 of 2024

that he stopped the practice. When huge delay occurred, unless there proper reason is assigned, it cannot be condoned as a matter of course.

As pointed out by the respondent the point of limitation also comes into play, when the right is vested upon the opposite party due to the long delay. It cannot be erased without any sufficient and acceptable reason. So the order passed by the trial Court does not suffer from any illegality or perversity.

6. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition stands closed.

16.12.2024

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

pnn

To

- 1.The Principal Subordinate Court, Thanjavur.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

4/5



WEB COPY



C.R.P(MD)No.716 of 2024

G.ILANGO VAN, J.

pnn

ORDER
IN
C.R.P(MD)No.716 of 2024
and
C.M.P(MD)No.3827 of 2024

16.12.2024