



CMP(MD). No.4124 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Friday, the Twenty Second day of March Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice C. KUMARAPPAN

CMP(MD). No.4124 of 2024
in
CRP(MD).No.2285 of 2018

Rani ... Petitioner/Petitioner

..Vs..

Bhuvaneswari ... Respondent/Respondent

Prayer :-

Civil Miscellaneous Petition filed U/s.151 of C.P.C to pass an order of Clarification to clarify the order dated 02.08.2023 made in CRP(MD)No.2285 of 2018 on the file of this Court and consequently to pass suitable direction to the learned District Munsif court, Paramakudi for entertaining the I.A.No.1 of 2023 in O.S.No.9 of 2013.

Prayer in CRP(MD)No.2285 of 2018:

Civil Revision Petition filed under Article 227 of Constitution of India to set aside the Fair and Decreetal order, dated 21.01.2017 in I.A. No. 74 of 2016 in O.S. No. 9 of 2013 on the file of the District Munsif Court, Paramakudi by allowing this Civil Revision Petition.



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ORDER:- This Civil Miscellaneous Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. M.S.Jeyakarthick, Advocate for the Petitioner and of Mrs.D.Devi Saravana Priya, Advocate for Respondent, this Court made the following order:

“This petition is filed to clarify the order dated 02.08.2023 made in CRP(MD) No.2285 of 2018 on the file of this Court and consequently to pass suitable direction to the learned District Munsif, Paramakudi for entertaining the petition in I.A.No.1 of 2023 in O.S.No.9 of 2013.

2. The learned counsel for the petitioner would submit that this Court vide order dated 02.08.2023 in C.R.P(MD) No.2285 of 2018 has passed the following order:-

7.It is settled principle of law that powers to condone the delay under Section 5 of Limitation Act is elastic enough to give substantial justice to the parties to lis. Though the petitioner did not file any document to substantiate her absence, this Court is inclined



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to allow the revision petition. However, to compensate the hardship faced by the respondent in the interregnum, this Court deem it fit to impose cost.

8.In the result, this Civil Revision Petition is allowed on payment of cost of Rs.3,000/~ (Rupees Three Thousand only) payable to the respondent, within a period of four weeks, from the date of receipt of a copy of this order, failing which, this Civil Revision Petition stands dismissed automatically without any further reference to the order of this Court. No costs.

9.At this juncture, the learned counsel for the respondent would urge this Court to give a time limit for disposal of the suit. Having considered the nature of suit and year of filing of the suit, the trial Court is directed to dispose the restoration application, and thereafter suit as expeditiously as possible, preferably, within a period of six months from the date of receipt of a copy of this order. It is made clear that both the parties should co~operate for the earlier disposal.



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3. It appears that in pursuance of the said order, the petitioner has complied with the condition and has paid the amount to the respondent's counsel by way of a demand draft. However, instead of submitting the acknowledgment before this Court, he has submitted the same before the trial Court. In view of non-submission of such acknowledgment before this Court, this Court vide communication, dated 17.11.2023, has informed the trial Court that since the condition has not been complied, the above civil revision petition has been dismissed. In pursuance of the order, the trial Court has closed the petition in I.A.No.1 of 2023.

4. The learned counsel for the respondent would fairly concede that he has already received the cost as ordered by this Court.

5. In view of the above, this Court is of the firm view that the petitioner has duly complied with the condition, but there is only a misunderstanding in respect of submitting the



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acknowledgment and he has submitted the acknowledgment before the trial Court, which resulted in sending communication by this Court to the trial Court. Since the condition passed in C.R.P(MD) No.2285 of 2018, dated 02.08.2023, has been complied with, the same is allowed.

6. In view of the same, the Registry is directed to send necessary communication to the trial Court and the trial Court is directed to entertain I.A.No.1 of 2023 in O.S.No.9 of 2013 and dispose of it according to it's own merits."

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/04/2024

Sub Assistant Registrar
(CS-I/II/III/IV)

TO

1.The District Munsif, Paramakudi.

+2 CC's to M/s.Jeyakarthish, Advc, SR Nos.15003 and 15004



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ORDER DATED : 22/03/2024

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ORDER

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CMP(MD). No.4124 of 2024

in

CRP(MD).No.2285 of 2018

SI-(03.04.2024) 6P/ 4C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.