



C.R.P.(NPD)(MD).No.998 of 2019

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.998 of 2019

V.P.Murugesan

... Petitioner/Petitioner/
Appellant/Plaintiff

-VS-

M.Nagulsamy

... Respondent/Respondent/
Respondent/Defendant

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, against the fair and decreetal order dated 16.11.2017 passed in I.A.No.245 of 2016 in A.S.S.R.No.3046 of 2016 on the file of the Principal District Court, Karur.

For Petitioner : Mr.M.P.Senthil

For Respondent :Mr.K.Govindarajan
for Mr.B.Ponnu Pandi



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ORDER

The present Civil Revision Petition has been filed by the appellant in the first appeal challenging the order passed by the first appellate Court rejecting the application to condone the delay of 1495 days in filing the first appeal.

2. The revision petitioner herein as the plaintiff has filed a suit in O.S.No.48 of 2009 before the Additional Sub-Court, Karur for recovery of a sum of Rs.4,99,900/- on the basis of a Pronote, dated 05.04.2006. After contest, the said suit was dismissed by the trial Court, on 28.10.2011. The revision petitioner had filed the first appeal before the Principal District Court, Karur, on 21.07.2016 with a delay of 1495 days. The petitioner had filed I.A.No.245 of 2016 to condone the said delay. A perusal of the affidavit indicates that he was aware of the date of delivery of the judgment of the trial Court. However, he was awaiting letters from his counsel with regard to furnishing of the certified copies of the said judgment and decree. Since the petitioner did not receive any letter from his counsel, he came to know about the same only when he contacted the counsel in 4th week of April 2016 with



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regard to the connected proceedings. He further contended that he was affected from jaundice from 21.04.2016 to 20.07.2016 and he was taking native treatment. Hence, he had prayed for condoning the delay.

3. The learned counsel appearing for the respondent had contended that during the same period, the petitioner had received the summons and appeared before the Court in another suit in O.S.No.48 of 2009. Therefore, the reasons assigned by the appellant/revision petitioner are not believable.

4. A perusal of the records, clearly indicate that the petitioner was aware of the date of delivery of the judgment of the trial Court. Thereafter, the petitioner has taken more than four years to file the appeal before the first appellate Court. Though the petitioner was aware of the delivery of the judgment by the trial Court, the petitioner has not chosen to contact his counsel as to verify whether the certified copies of the judgment and decree are ready or not? Further, the reason assigned by the petitioner that he was suffering from jaundice for the period of three months is also not supported any documents. Viewing from any angle, this Court did not find any merit and the trial Court has rightly rejected the application for condoning the delay.



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5. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

01.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Principal District Court,
Karur.



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R.VIJAYAKUMAR,J.

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