



C.R.P.(MD)No.2037 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.03.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.R.P.(MD)No.2037 of 2019

and

C.M.P.(MD)No.10465 of 2019

Johnrose

... Petitioner/ Petitioner / Appellant

Vs.

Thankam,

... Respondent / Respondent / Respondent

Prayer : This Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to set-aside the order dated 24.07.2019, in I.A.No.266 of 2017 in A.S.SR.No.719 of 2017, on the file of the Subordinate Judge, Kuzhithurai.

For Petitioner : Mr.N.Edwin Jeyakumar

For Respondent : Mr.C.Godwin

ORDER

This Civil Revision Petition is directed against the order in I.A.No. 266 of 2017 in A.S.SR.No.719 of 2017, dated 24.07.2019, on the file of the Subordinate Judge, Kuzhithurai, dismissing the petition filed under Order XLI Rule 3-A of the Code of Civil Procedure.



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2. The respondent as plaintiff has filed a suit in O.S.No.279 of 2012 against the revision petitioner/husband seeking maintenance. After full trial, the trial Court has passed a judgment and decree, dated 06.03.2017, directing the revision petitioner to pay Rs.3,000/- per month for future maintenance and to pay Rs.18,000/- towards previous maintenance.

3. Aggrieved by the impugned judgment and decree, the revision petitioner has preferred the Appeal along with application to condone the delay of 188 days in preferring the Appeal.

4. The main contention of the revision petitioner in the affidavit filed in support of the above petition is that due to his illness, there occurred delay of 188 days; that the delay occurred is neither willful nor wanton and that the revision petitioner/defendant would be put to irreparable loss and hardship, if the delay is not condoned; that the revision petitioner is having valid ground to contest the case and that therefore, the delay has to be condoned.



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5. The respondent has filed a counter statement stating that the petitioner has nowhere whispered about the nature of his ill-health, period of treatment and the hospital where he was taken treatment; that the delay is inordinate and the same is willful and wanton and that therefore, the petition is liable to be dismissed.

6. The learned counsel for the respondent would submit that while the suit was pending, *exparte* order came to be passed against the revision petitioner and he filed a petition in I.A.No.212 of 2014 for setting aside the *ex-parte* decree and the same was allowed. Subsequently, the petitioner has again allowed the suit to be decreed as *exparte* and his application for setting aside the *exparte* decree was allowed for the second time and that after passing of the judgment and decree, he has filed the above application, to condone the delay of 188 days in filing the Appeal; and that the petitioner on every stage has filed petition after petition with only intention to drag on the proceedings. Though the petitioner has alleged his illness, he has not produced any iota of evidence to substantiate the same.



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7. As rightly contended by the learned counsel for the respondent, the petitioner has not furnished any particulars with regard to the nature of illness, period of treatment and where he was taken treatment, etc. Except the vague ground of illness, the revision petitioner has not canvassed any reasonable ground for condoning the delay.

8. Considering the above, the impugned order dismissing application for condoning the delay cannot be found fault with. Hence, this Court concludes that the Civil Revision Petition is devoid of merits and the same is liable to be dismissed.

9. In the result, the Civil Revision Petition is dismissed. Consequently, connected Miscellaneous Petition is closed. No costs.

13.03.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
LS



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To

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



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K.MURALI SHANKAR,J.

LS

Order made in
C.R.P.(MD)No.2037 of 2019

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