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CRP.No1443 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28-04-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP NO. 1443 of 2025
and CMP.No.8516 of 2025

P.Markendeyalu

..Petitioner

Vs

D.Ramakrishna

..Respondent

Prayer: CRP filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 01.02.2025 in I.A.No.3 of 2024 in A.S.S.R.No.4270 of 2024 on the file of learned I Additional Judge, City Civil Court, Chennai.

For Petitioner(s): MrR.Selvakumar

For Respondent(s): Mr.P.Subba Reddy

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decreetal order dated 01.02.2025 passed in I.A.No.3 of 2024 in



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A.S.S.R.No.4270 of 2024 on the file of learned I Additional Judge, City Civil Court, Chennai.

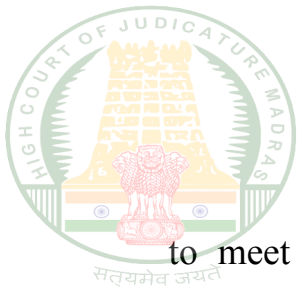
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2. Brief facts of the case:-

(a) The revision petitioner is the defendant in O.S.No.1963 of 2020 filed under Order XXXVII Rule 1 and 2 of CPC. The petitioner had filed an application in I.A.No.1 of 2022 seeking leave to defend the suit in O.S.No.1963 of 2020. The petition was dismissed on 01.09.2022 and the suit was decreed on the same day.

(b) Thereafter, the petitioner had filed an appeal in A.S.SR.No.4270 of 2024 with the delay of 550 days in filing the appeal and the revision petitioner filed I.A.No.3 of 2024 under Order 41 Rule 3(A) of CPC to condone the delay of 550 days in filing the appeal. The Appellate Court had dismissed the petition by order dated 01.02.2025, against which, the present Revision Petition has been filed.

3. Mr.R.Selvakumar, learned counsel appearing for the petitioner would submit that after disposal of the original suit, the petitioner was unable



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to meet his erstwhile counsel M/s.Eswar, Kumar and Rao due to sudden accident and subsequently since the office of the previous counsel was damaged by termite, there has been some miscommunication. However, the petitioner was able to approach the present counsel and file appeal and that there had been delay of 550 days.

4. Learned counsel for the petitioner further submits that though there are certain lapses on the part of the petitioner, the petitioner has substantial defence in the suit; but the trial court has not granted leave to defend the suit. That apart, the first appellate court has not taken into consideration the reasons for delay in filing the appeal and the substantial defence taken on his side and if the petitioner has not been given opportunity for contesting the case, he will be put to severe hardship. He would further submit that the petitioner to show his bonafide has undertaken to deposit 50% of the decretal amount which works out to Rs.5,47,452/- within a time frame to be fixed by this court. He would further submit that the petitioner is also ready to cooperate for the speedy disposal of the first appeal, thereby seeks to set aside the impugned order and prays for a direction to the appellate court to number the appeal and hear the appeal on merits.



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5. The learned counsel for the respondent would submit that the appellate court on a finding that the petitioner has not filed any proof that he met with an accident and he has not given any proof to show that the office of the erstwhile Advocate was damaged from termite, dismissed the petition to condone the delay. However, he would submit that there is no objection in conditional order passed and he would only seek that the appellate court may be directed to dispose of the appeal within a time frame.

6. Heard and perused.

7. This court though finds that there are lapses on the part of the petitioner, in order to protect his substantial rights, this court is of the opinion that one chance can be given to the petitioner to contest the appeal on merits. However, to show his bonafides, the petitioner be directed to deposit 50% of the decretal amount.

8. In the light of the foregoing observation, this Civil Revision Petition is allowed. The order dated 01.02.2025 in I.A.No.3 of 2024 in



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A.S.SR.No.4270 of 2024 is set aside. The delay of 550 days in filing the appeal

is condoned on condition that the petitioner deposits Rs.5,47,452/- [Rupees Five Lakhs forty seven thousand four hundred fifty two only] on or before 06.06.2025 to the credit of O.S.No.1963 of 2020 on the file of XIX Assistant Judge, City Civil Court, Chennai. On such deposit being made and proof furnished, the appellate court shall number the appeal within a week thereafter. The petitioner and the respondent shall appear before the Appellate Court on 25.06.2025. The appellate Court shall take every endeavour to dispose of the appeal within a period of six months from 25.06.2025.

No costs. Consequently, connected CMP is closed.

28-04-2025

Note: Issue order copy on 26/5/2025.

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To

- 1.The learned I Additional Judge, City Civil Court, Chennai.
- 2.The XIX Assistant Judge, City Civil Court, Chennai.
- 3.The Section Officer, V.R.Section, High Court, Madras.



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