



C.R.P.No.3351 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2025

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P.No.3351 of 2019
C.M.P.No.21797 of 2019

K.Lakshmi (Died)

2.M.Kali

3.K.Rajkumar

4.K.Raj

Sole petitioner died. Petitioners 2 to 4 brought on record as Lrs of the deceased sole petitioner viz Lakshmi vide court order dated 07.06.2023 made in C.M.P.No.3055, 3057 and 3060/2023 in C.R.P.No.3351 of 2019 by NSSJ ...Petitioner

Vs

M.K.Moorthi @ Kaliyamoorthi ...Respondent

PRAYER :- Civil Revision Petition is filed under Article 227 of the Constitution of India, pleased to set aside the fair and decretal order dated 31.08.2018 made in I.A.No.622 of 2018 in O.S.No.316 of 2015 on the file of the learned Principal District Munsif Court, Thirukovilur by allowing this Civil Revision Petition .

For Petitioners : Mr.N.Manoharan
For Respondent : Mr.N.Suresh



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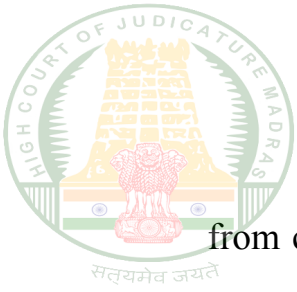
ORDER

The defendant in the suit O.S.No.316 of 2015 is the petitioner in I.A.No.622 of 2018. Pending the revision the sole petitioner had died and her legal heirs have been brought on record as petitioners 2 to 4.

2.The facts giving rise to the above civil revision petition is herein below set out:-

The respondent had filed suit O.S.No.316 of 2015 on the file of the learned Principal District Munsif Court, Thirukovilur, seeking compensation as the deceased petitioner had filed a private complaint in C.C.No.239 of 2009 on the file of the learned Judicial Magistrate No.2, Ulundurpet. The respondent had entered appearance in the aforesaid private complaint on 14.12.2009 and ultimately he was acquitted by order dated 24.04.2015. Thereafter, the respondent had come forward with the suit in question alleging that he was forced to appear for seventy-two hearings and therefore he has to be compensated.

3.The petitioner would submit that she had entered appearance by engaging a counsel and the suit was posted for filing written statement on 05.11.2016. Even prior to that date, the deceased petitioner was suffering



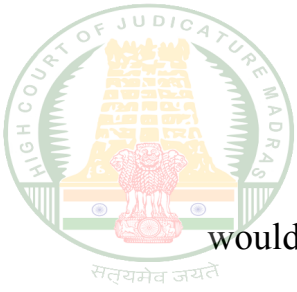
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from cancer and was under treatment. The suit was therefore decreed on 05.11.2016. The petitioner would submit that on account of her ill health she was not in a position to meet her counsel. Thereafter on 05.11.2016, she met her counsel who had informed her about the ex-parte decree. On coming to know about the ex-parte decree, immediately the petitioner has filed I.A.No.622 of 2018 to condone the delay of 337 days to set aside the decree passed in O.S.No.316 of 2015. Challenging the same, petitioner had filed the above revision and as stated supra pending the suit she had passed away and her legal representatives had been brought on record.

4.Heard the learned counsel for the petitioner and perused the records.

5.Petitioners are aggrieved by the dismissal of the application for condoning the delay, since, the learned Principal District Munsif, Thirukovilur, has not taken note of the fact that the petitioner was under treatment for cancer and was taking treatment at the Cancer Institute, Adyar. This fact has been totally overlooked by the learned Judge. The learned Judge has failed to appreciate that the deteriorating health and the fact that the petitioner was suffering from a life threatening ailment



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would have had an impact on the entire family as a result of which they have not taken care to attend to the case. It is now informed that she had also finally succumbed to her ailment and passed away.

6. Therefore, considering the above, the order under challenge has to necessarily be set aside and it is accordingly set aside. It is now informed by the learned counsel for the petitioner that the written statement has been filed along with the petition to condone the delay. The learned counsel for the respondent would also fairly conceded that the written statement was filed along with the condone delay petition. In such circumstances, the aforesaid reasons for delay is condoned. Therefore, though the Civil Revision Petition is filed for setting aside the order refusing to condone the delay of 337 days, this Court while allowing the Civil Revision Petition and condoning the delay of 337 days had also set aside the ex-parte decree. Since the written statement has been filed along with petition, the learned Principal District Munsif, Thirukovilur, shall proceed to frame issues and shall endeavor to dispose of the suit within a period of six months from the date of receipt of copy of this order.



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7.The Civil Revision Petition is allowed with the above directions.

No costs. Consequently, connected miscellaneous petition is closed.

19.02.2025

Index : Yes/No
Internet : Yes/No
Speaking Order/Non Speaking Order
ep

To

The Principal District Munsif Court, Thirukovilur.



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P.T.ASHA, J,

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