



CRP NPD.No.1175 of 2019

THE HIGH COURT OF JUDICATURE AT MADRAS

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Date : 02.07.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

CRP [NPD] No.1175 of 2019 & CMP.No.7548 of 2019

S.Kumar

. . . Petitioner

Versus

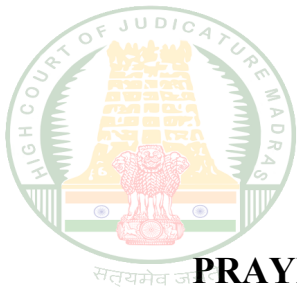
1. The Recovery Officer,
Office of the Recovery Officer,
Employees State Insurance Corporation,
143, Sterling Road, Chennai.

2. ICICI Home Finance Co. Ltd.,
No.248, R.K.Mutt Road,
R.A.Puram, Chennai.

3. B.Balaraman

4. M.Edward Raj
[CRP restored as against R2 to R4 vide Court Order dated
05.07.2024 made in CMP.No.11948 of 2024 in CRP.No.
1175 of 2019 by DEVJ.

. . . Respondents



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PRAYER : Petition filed under section 115 of Code of Civil Procedure to set aside the Order made in 19686 of 2014 in O.S.No.2320 of 2011 on the file of the VI Assistant City Civil Court, Chennai dated 12.01.2016.

For petitioner : Mr.V.Ashok Kumar

For respondents : No appearance

ORDER

This revision has been filed challenging the Order of the trial Court dismissing the application filed to condone the delay in filing an application to restore the suit which was dismissed for default on 13.03.2013.

2. The suit in O.S.No.2320 of 2011 has been filed for declaration and consequent injunction as against the first respondent. The suit has been dismissed for default on 13.03.2013. Therefore, an application has been taken out to restore the suit along with an application to condone the delay of 116 days in filing the application to restore the suit under section 151 of Code of Civil Procedure. The trial Court taking note of the mistake in calculating the delay and mentioning wrong provision of law, dismissed the application.



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Challenging the same, the present revision has been filed.

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3. Despite service of notice and name printed in the cause list, none appeared for the respondents.

4. Heard the learned counsel appearing for the petitioner and perused entire materials available on record.

5. At the outset, this Court is of the view that mere mentioning wrong provision of law will not take away substantial right of the parties. When the suit was dismissed due to some mistake on the part of the party, the Court has to see the conduct of the party and see whether it has been done deliberately or not. Normally, the Court will lean in favour of the party who seek condonation of delay, taking note of substantial right of the parties.

6. Accordingly, this Civil Revision Petition is allowed and the Order of



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the trial Court in I.A.No.19686 of 2014 is set aside and the suit in O.S.No.2320 of 2011 is restored to file. No costs. Consequently, connected miscellaneous petition is closed.

02.07.2025

Index : Yes / No

Internet: Yes

Speaking/non speaking order

vrc

To,

1. The VI Assistant Judge,
City Civil Court, Chennai.



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N. SATHISH KUMAR, J.

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