



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2018

CORAM :

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP (NPD) (MD) No.2047 of 2017

Ramasubramanian

... Petitioner

vs.

1) Babu Selvan

2) Pattu Raja

... Respondents

Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 15.02.2017 passed in I.A.No.1022 of 2016 in O.S.No.101 of 2011 on the file of the District Munsif of Srivaikundam.

For Petitioner : Mr.N.Subramanian

For Respondents : No appearance

ORDER


This Civil Revision Petition has been filed against the fair and decreetal order dated 15.02.2017 passed in I.A.No.1022 of 2016 in O.S.No.101 of 2011 on the file of the District Munsif, Srivaikundam.

2.The revision petitioner is plaintiff and respondents are defendants. The revision petitioner filed O.S.No.101 of 2011 on the file of the District Munsif, Srivaikundam, for declaration and permanent injunction. The suit was dismissed for default and the petitioner filed restoration application along with the delay condonation petition to condone the delay of 29 days stating that due to ill-health, the above delay had occurred. The Trial Court dismissed the condone delay petition holding that the petitioner has not satisfactorily shown sufficient cause for not filing the application within the prescribed time. Against the said order, this revision petition has been filed.

3.Heard the learned counsel for the petitioner. Despite service of notice, the respondents have not chosen to appear either in person or through pleader. Hence, this Court is inclined to pass orders on merits.

<https://hcservices.ecourts.gov.in/hcservices/>

4.In my considered opinion, delay of 29 days in filing the



restoration application is not inordinate and the learned Judge in the interest of justice ought to have allowed the condone delay petition. Perusal of the records also shows that the matter has been continuously adjourned for trial and unfortunately, the petitioner was not able to appear on that particular date and hence, the suit was dismissed for default.

5. Therefore, the impugned order dated 15.02.2017 made in I.A.No.1022 of 2016 in O.S.No.101 of 2011 on the file of the District Munsif of Srivaikundam, is set aside and this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar

To

The District Munsif,
Srivaikundam.

+1cc to Mr.N.Subramanian, Advocate in SR. No.45428

bala

MK/MR/SAR 2/15.02.2018/2P/3C

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