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Date: 27/10/2025

B.S. Santhilal (deceased) and Others Vs J. Samidurai and R. Siva

C.R.P. NPD NO. 1670 of 2008

Court: Madras High Court

Date of Decision: Feb. 8, 2010

Acts Referred:
Civil Procedure Code, 1908 (CPC) â€" Section 149#Constitution of India, 1950 â€" Article 227#Limitation Act, 1963 â€" Section 21(2)#Tamil Nadu Court Fees and Suits Valuation Act, 1955 â€" Section 4

Citation: (2010) 2 LW 689

Hon'ble Judges: R. Mala, J

Bench: Single Bench

Advocate: S. Mahimai Raj, for the Appellant; D. Ravi Chandran, for the Respondent

Final Decision: Dismissed

Judgement

@JUDGMENTTAG-ORDER

R. Mala, J.
This Civil Revision Petition has been filed against the order passed by the Principal District Judge, Puducherry, on 24.09.2007,

dismissing the I.A. No. 253 of 2006 in unnumbered O.S. Of 2006 and rejecting the plaint.

2. The learned Counsel for the Petitioners would submit that the Defendants/Respondents herein borrowed Rs. 3,60,000/- and agreed to repay

the same with interest at the rate of 24% p.a. and executed a promissory note on 05.10.2001. The first Defendant/first Respondent issued a

cheque for Rs. 30,000/-, dated 04.11.2001, which was dishonoured as ""Funds Insufficient"". Hence, the Plaintiff/first Petitioner filed a suit on

04.10.2004 for recovery of money due on the promissory note, but the same has been returned for payment of deficit court fee and to rectify the

defect, two weeks time has been granted. But, the Plaintiff/first Petitioner has not rectified the defect and represented the plaint in time. He filed the

application in I.A. No. 253 of 2006 u/s 151 of Code of CPC to condone the delay of 729 days in representing the plaint. The application in I.A.

No. 253 of 2006 was dismissed by the Principal District Judge, Puducherry, by the impugned order dated 24.09.2007, observing that no

application u/s 149 of Code of CPC has been filed to extend the time for payment of court fee, so the plaint has been rejected. Hence, it is against

law. The Court ought to have given an opportunity to the Petitioner to file an application u/s 149 Code of CPC To substantiate his claim, he relied

upon the decision reported in (2009) 4 MLJ 505, Mansoor and Others Vs. Bagavathi Ammal, ; Umesh Challiyil Vs. K.P. Rajendran, , Umesh

Challiyil Vs. K.P. Rajendran, ; State of M.P. and Another Vs. Pradeep Kumar and Another, , State of M.P. and Another Vs. Pradeep Kumar

and Another, ; and 2002 (3) CTC 22, Bhuvaneswari v. R. Elumalai 2002 (3) CTC 22, and prayed for allowing of the Civil Revision Petition.

3. Per contra, the learned Counsel for the Respondents would contend that the suit has been filed for recovery of a sum of Rs. 6,19,250/- due on

the promissory note. The Court fee ought to have been paid is Rs. 46,444.25. He paid only Rs. 100/- and he filed the suit on 04.10.2004 viz., the

last date of limitation, without paying the proper Court fee. The plaint has been returned on 05.10.2004, giving two weeks time for paying the

deficit court fee and also for rectifying the other defects. But, it was represented only on 18.10.2006 at District Court, without filing a petition to

extend the time for payment of the Court fee. He ought to have filed a petition u/s 149 Code of CPC to extend the time for payment of court fee.

To substantiate his case, he relied upon the decisions reported in K. Natarajan Vs. P.K. Rajasekaran, ; V.N. Subramaniyam Vs. A. Nawab John

and Others, ; 2005(5) CTC 401, S.V. Arjunaraja v. P. Vasantha 2005(5) CTC 401; and (2009) 1 MLJ 1328, Dhanalakshmi Financiers v.

Soundarammal and Ors. (2009) 1 MLJ 1328 and prayed for the dismissal of the Civil Revision Petition.

4. The Plaintiff/first Petitioner herein has filed a suit for recovery of money due on promissory note dated 05.10.2001, stating that the Respondents

herein borrowed Rs. 3,60,000/- from the first Petitioner and agreed to repay the same with interest at the rate of 24% pa and executed a

promissory note. For the first repayment, first Respondent/first Defendant has given a cheque for Rs. 30,000/-, which was dishonoured as ""Funds

Insufficient"". Hence, the Plaintiff/ first Petitioner has filed a suit for recovery of Rs. 6,19,250/- due on promissory note. He ought to have paid the

court fee of Rs. 46,444.25, admittedly, he paid only Rs. 100/-. He filed the plaint only on 04.10.2004 viz., the last date of limitation. Hence, the

plaint has been returned on 05.10.2004 stating as under:

1. Deficit court fee has to be paid.

2. The Counsel has to sign in Page No. 5. Time two weeks.

It was again represented, wherein it was mentioned as under:

Return No. 1 - Deficit Court fee paid.

Return No. 2 - Duly complied.

Petition for condoning the delay in representation filed along with.

As per the recent amendment above. Rs. 5,00,000/-this Court having jurisdiction. Hence represented before this Hon"ble Court (Principal District

Judge at Pondicherry).

5. The plaint has been represented on 18.10.2006. On that basis only, the impugned order has been passed on 24.09.2007. The learned Counsel

for the Petitioners would contend that it is appropriate to consider Section 149 of C.P.C, which reads as under,

Section 149, Code of Civil Procedure: Where the whole or any part of any fee prescribed for any document by the law for the time being in force

relating to court-fee has not been paid, the Court, may, in its discretion, at any stage, allow the person, by whom such fee is payable, to pay the

whole or part, as the case may be, of such court fee and upon such payment the document, in respect of which such fee is payable, shall have the

same force and effect as if such fee had been paid in the first instance.

The learned Counsel would submit that Section 149 of Code of CPC is a relevant provision for granting extension of time for payment of deficit

court fee. Admittedly, the first Petitioner herein/Plaintiff has not filed any application u/s 149 of Code of CPC The learned Counsel for the

Petitioners would contend that if the first Petitioner has not filed petition u/s 149 of Code of CPC for extension of time for payment of Court fee,

the plaint ought to have been returned, instead of rejecting the same. Hence, he relied upon the decision reported in (2000) 7 Supreme Court

Cases 372 : 2001 1 L.W. 444, State of M.P. and Another Vs. Pradeep Kumar and Another, ,, wherein, the Supreme Court has observed that

unintentional lapses of a litigant should not result in closing of the doors of the Court permanently. Court is within jurisdiction in returning the

memorandum of appeal to the party concerned as defective. Such party can then cure the defect and present the application. In the said decision,

the Supreme Court has held as under:

12. It is true that the pristine maxim vigilantibus non dormientibus jura subveniunt (law assists those who are vigilant and not those who sleep over

their rights). But even a vigilant litigant is prone to commit mistakes. As the aphorism ""to err is human"" is more a practical notion of human

behaviour than an abstract philosophy, the unintentional lapse on the part of a litigant should not normally cause the doors of the judicature

permanently closed before him. The effort of the court should not be one of finding means to pull down the shutters of adjudicatory jurisdiction

before a party who seeks justice, on account of any mistake committed by him, but to see whether it is possible to entertain his grievance if it is

genuine.

13. Crawford on Statutory Construction has stated thus at p.516, Article 261 in the 1940 Edn.:

The question as to whether a statute is mandatory or directory depends upon the intent of the legislature and not upon the language in which the

intent is clothed. The meaning and intention of the legislature must govern, and these are to be ascertained, not only from the phraseology of the

provision, but also by considering its nature, its design, and the consequences which would follow from construing it the one way or the other.

14. It is apposite to point out that the said passage has been quoted with approval by this Court in Govindlal Chhaganlal Patel Vs. The Agricultural

Produce Market Committee, Godhra and Others,

15. In Jagat Dhish Bhargava Vs. Jawahar Lal Bhargava and Others, , this Court while considering the procedure to be followed by the Court on

receipt of defectively filed appeals made the following observations:

It would thus be clear that no hard and fast rule of general applicability can be laid down for dealing with appeals defectively filed under Order 41

Rule 1. Appropriate orders will have to be passed having regard to the circumstances of each case, but the most important step to take in cases of

defective presentation of appeals is that they should be carefully scrutinised at the initial stage soon after they are filed and the Appellant required to

remedy the defects.

6. In the decision relied upon by the learned Counsel for the Petitioners, reported in Umesh Challiyil Vs. K.P. Rajendran, , the Supreme Court has

observing that the defects should be those which go to root of matter, has held as under:

It is true that the election petition has to be seriously construed. But that apart the election petition should not be summarily dismissed on small

breaches of procedure. Section 83 itself say that the election petition should contain material facts. Section 86 says that the High Court shall

dismiss the election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117. But not on defects of minor or

cosmetic nature such as defect in verification or affidavit in support of allegations of corrupt practices. These are not the grounds mentioned in

Section 86 for dismissal of election petition. But nonetheless even if it is to entail serious consequence of dismissal of the election petition for not

being properly constituted, then too at least the Petitioner should have been given an opportunity to cure these defects and put the election petition

in proper format. In order to maintain the sanctity of the election the Court should not take such a technical attitude and dismiss the election petition

at the threshold. On the contrary after finding the defects, the Court should give proper opportunity to cure the defects and in case of failure to

remove/cure the defects...

14. However, in fairness whenever such defects are pointed out then the proper course for the Court is not to dismiss the petition at the threshold.

In order to maintain the sanctity of the election the Court should not take such a technical attitude and dismiss the election petition at the threshold.

On the contrary after finding the defects, the Court should give proper opportunity to cure the defects and in case of failure to remove/cure the

defects, it could result into dismissal on account of Order 6 Rule 16 or Order 7 Rule 11 Code of Civil Procedure....

7. The learned Counsel for the Petitioners also relied upon the decision reported in Mansoor and Others Vs. Bagavathi Ammal, , wherein this

Court observing that action of the Court shall not prejudice any person, when the petition for condonation of delay has been filed, without filing an

application for setting aside the abatement of the suit, has held as under: -

Action of the Court shall not prejudice any person. Therefore, when the petition for condonation of delay has been filed without filing an application

for setting aside the abatement of the suit, the Court ought to have returned the petition instructing the Petitioner to file an application for setting

aside the abatement. Therefore, for the mistake committed by the Court, the parties should not suffer. In the interest of justice, the parties are to be

allowed in the participate proceedings.

8. The learned Counsel for the Petitioners also relied upon the decision reported in 2002 (3) CTC 22, Bhuvaneswari v. R. Elumalai, wherein this

Court has held that the order passed by Court returning paper for compliance of certain returns is administrative order and not judicial order.

9. It is appropriate to consider the decision relied upon by the learned Counsel for the Respondents reported in K. Natarajan Vs. P.K.

Rajasekaran, wherein this Court has held as under:

13. Thus, the legal position can be summed up as that before exercising discretion u/s 149, Code of Civil Procedure, and granting time to the

Plaintiff to pay necessary Court-fee and which time goes beyond the period of limitation to file a suit, notice must be given to the Defendant. We

also point out that suppose a reason is given by the Plaintiff for not paying the Court-fee, it would not be possible for the Court to investigate into it

and certainly the presence of the Defendant will help the Court to take a decision.

14. Of course, where the time granted by the Court to pay the deficit Court-fee falls within the period of limitation to file the suit, no notice need be

given to the Defendant/opposite party. It is desirable that whenever a plaint is presented, the same is verified and returned at least on the third day

(excluding the holidays), if necessary pointing out the defects.

17. The next question is, suppose if the Plaintiff fails to deposit the deficit Court-fee within the time granted and also fails to make any application

for extension of time before expiry of that time granted at the first instance, can he thereafter file a petition for extension of time. Nothing in Code of

CPC which would restrict the powers of the Court. The Court can in extreme and exceptional cases when satisfied, can extend the time....

18. Once deficit Court-fee is not paid within the time granted or when the extension of time was sought for is not granted, the plaint has to be

dismissed as not one of proper presentation...

19. Keeping in mind the above legal position, let us proceed to consider the case on hand. According to the Plaintiff, he gave Rs. 25,000/- on

19.08.1981 and another Rs. 10,000/- on 18.09.1981 to the Defendant. He filed the suit on 17.8.1984, just one day before the last date of

limitation. In the plaint, under the heading ""Details of Valuation"", he has clearly stated that the Court-fee payable is Rs. 4,030.75. But however, he

has affixed Court-fee of only Rs. 1. The plaint was returned on 21.8.1984 giving two weeks time to rectify the defects which would include paying

of deficit Court-fee. Along with the plaint, Plaintiff fixed only a xerox copy of the letter dated 19.4.1982, written by the Defendant to the Plaintiff.

Admittedly, he did not re-present the plaint with requisite Court-fee within the time granted. Only long thereafter i.e., on 2.9.1986, it was

represented with requisite Court-fee. Along with the same, Plaintiff also filed an affidavit explaining the reasons for delay in representing it....

10. Here, in the case in hand, it is seen that the plaint has been presented on the last date of limitation and the proper Court fee has not been filed.

Even though, he has not filed any petition for extension of time for payment of deficit Court fee, the Court has granted two weeks time for payment

of deficit Court fee and also for rectifying the defects mentioned in the return. But, within two weeks, the Court fee has not been paid. The first

Petitioner/Plaintiff without filing an application u/s 149 Code of CPC for extension of time for payment of deficit Court fee, he had filed an

application u/s 151 Code of CPC to condone the delay of 729 days in representing the plaint.

11. At this juncture, it is appropriate to consider the decision relied upon by the learned Counsel for the Respondents reported in K. Natarajan Vs.

P.K. Rajasekaran, , wherein this Court has held as under:

21. We deem it necessary to clarify the legal position and lay down the procedure to be followed as under:

(1) Section 149 of Code of CPC is a proviso to Section 4 of the Tamilnadu Court Fees and Suits Valuation Act, 1955.

(2) The word ''document'' employed in Section 149 of Code of CPC would include plaint also.

(3) Whenever a plaint is received, the same shall be verified and if found to be not in order, the same shall be returned at least on the third day

(excluding the date of presentation so also the intervening holidays).

(4) If the suit is presented on the last date of limitation affixing less Court-fee, than the one mentioned in the details of valuation in the plaint, an

affidavit shall be filed by the Plaintiff giving reasons for not paying the requisite Court-fee.

(5) In such cases, the Court shall before exercising its discretion and granting time to pay the deficit Court-fee, shall order notice to the Defendants

and consider their objections, if any. However, such notice is not necessary in cases where the Plaintiff has paid almost the entirety of the requisite

Court-fee and the Court is satisfied on affidavit by the party that the mistake happened due to some bona fide reasons such as calculation mistake

or the alike.

(6) The discretion referred to in Section 149 of Code of CPC is a judicial discretion and the same has to be exercised in accordance with the well

established principles of law.

(7) But however, in cases where the time granted to pay the deficit Court-fee falls within the period of limitation, the Defendant need not be heard.

(7A) In case where the plaint is presented well within the period of limitation with deficit Court-fee and the Court returns the plaint to rectify the

defect giving sometime (2 or 3 weeks), which also falls within the period of limitation, but the plaint is re-presented paying deficit Court-fee after

the period of limitation, the Court is bound to hear the Defendant, notwithstanding the fact that the Plaintiff has paid substantial Court-fee (not

almost entirety) at the first instance; before condoning the delay in paying the deficit Court-fee.

(8) In cases where part of the time granted to pay the deficit Court-fee falls outside the period of limitation and the deficit Court-fee is paid within

the time of limitation (i.e., the plaint is re-presented with requisite Court fee), the Court need not wait for the objections of the Defendant and the

plaint can be straight away numbered.

(9) The Court should exercise its judicial discretion while considering as to whether time should be granted or not. Cases where the Plaintiff

wrongly (bona fide mistake) valued under particular provisions of law under Court Fee Act or where he could not pay the required Court-fee for

the reasons beyond his control, due to some bona fide reasons, the Court shall condone the delay. Payment of substantial Court-fee is a

circumstance, which will go in favour of the claim of the Plaintiff that a bona fide mistake has crept in.

But however, in cases where the Plaintiff acted wilfully to harass the Defendant (like wilful negligence in paying court-fee, awaiting the result of

some other litigation, expecting compromise, etc.).

(10) If the Court had exercised its discretion without issuing notice, then it is open to the Defendant to file application u/s 151 of Code of CPC for

proper relief. It sill be open to the Defendant to file a revision under Article 227 of Constitution of India. That apart, objection can also be raised at

the trial or even at the appellate stage, since the failure to exercise judicial discretion in a manner known to law (as laid down in various decision of

the Supreme Court) amounts to Court applying a wrong provision of law. (emphasis supplied)

12. The learned Counsel for the Respondents relied upon the decision reported in 2005 (5) CTC 401, S.V. Arjunaraja v. P. Vasantha , wherein

this Court has observed that in the absence of specific application invoking Section 149 Code of CPC and in the absence of any order passed by

Court granting time for payment or enlargement, the suit is liable to be rejected and this Court further has held as under:

20. It is also held by the Apex Court in Mohammad Mahibulla and another Vs. Seth Chaman Lal (dead) by L.Rs. and others, , that "when an

appeal had not been filed sufficiently stamped, instead of outright dismissing the memorandum of appeal, an opportunity should have been given

and the Appellant should have been called upon to make good the deficiency", which is also not followed by the Plaintiff in this case, by filing an

application and getting an order from the Court, whether the order is correct or not. For non-payment of Court Fees, generally, one occasion

alone, time should be given and if the Plaintiff is unable to pay the required Court Fees, even after the first return, then, it is incumbent upon him to

make an application and seek time and the Court, satisfying itself, should grant time for payment of the deficit Court Fees. The Court should not

extend the time, mechanically, for payment of deficit Court Fees. After giving an opportunity, if the Plaintiff has not paid the Court Fees, as

observed by the Apex Court, if there was failure to comply with the direction of the Court, the memorandum of the appeal should be dismissed,

which procedure should have alone been followed in this case, which was also not followed. In this view also, in my opinion, the subsequent

extension of time by the trial Court, blindly, is not a valid extension of time and therefore, even if the Court Fees is paid, on the alleged invalid

extension of time, certainly, that will not save the limitation, as provided u/s 149, Code of Civil Procedure, which can be seen from the decision of

the Division Bench of this Court in K. Natarajan Vs. P.K. Rajasekaran, .

21. In the said decision, the Division Bench of this Court has considered the effect of non-payment of deficit Court Fees, within the period of

limitation, as well as, how the extension of time should be given, if the deficit Court Fees has to be paid, after the period of limitation is over.....

22. All the ....guidelines in the case on hand were offended, not only by the Plaintiff but also infringed by the trial Court, without adopting the

procedure prescribed. Further, Order 7, Rule 11, proviso of the Code of CPC also not complied with. In this view, the payment of Court Fees,

after the period of limitation is over, will come within the meaning of Order 7, Rule 11(C), as extracted by the supra. The subsequent grant of time,

which is not in accordance with law, cannot be taken advantage of.

23. In Pamidimukkala Sitharamayya and Others Vs. Ivaturi Ramayya and Another, , the Division Bench of this Court had an occasion to consider

the language of Section 149, Code of CPC and payment of deficit Court Fees, after the application for extension of time having been dismissed,

wherein it is held:

The language of Section 149, Code of Civil Procedure, itself seems to imply that in the absence of an order granting time under the section, the

presentation of the un-stamped or insufficiently stamped memorandum of apepal will not amount to a valid presentation.

Thus, indicating that absence of an order, granting time u/s 149, C.P.C, will not save the limitation, if deficit Court Fees has been paid, after the

period of limitation, which is squarely applicable to the case on hand.

13. In the decision relied upon by the learned Counsel for the Respondents reported in V.N. Subramaniyam Vs. A. Nawab John and Others, , this

Court has held as under:

14. ...in the present case, the Plaintiff"s could have invoked Section 149 C.P.C, as well, to condone the delay in paying the deficit Court-fee while

representing the plaint.

15. As regards the locus standi of the revision Petitioner to question the orders passed in the Interlocutory Applications, before his impleadment in

view of Order 1 Rule 10(5) read with Section 21 of the Limitation Act, it is to be stated that pursuant to the devolution of interest to him from the

first Defendant pendente lite on his purchase, Section 21(2) of the Limitation Act only will apply to this case and Section 21(1) will not be

applicable and therefore the revision Petitioner is entitled to challenge as though he was a party from the date of the suit. This proposition of law is

fortified in the judgment of the Hon"ble Supreme Court in Velamuri Venkata Sivaprasad (D)By Lrs. Vs. Kothuri Venkateswarlu (D)By Lrs. Ors., .

16. Under these reasons, since there is no invocation of the specific provision of Section 149 Code of CPC and consequential prayer to condone

the delay in payment of the deficit Court-fee while representing the plaint, the Subordinate Judge has erred in allowing the I.A. Nos. 75 and 76 of

2004 by exercising the discretion without analysing the bona fides of the Plaintiff"s case and without giving notice to the Defendant. Accordingly,

the C.R.P. Nos. 657 and 658 of 2006 are allowed. Consequently, C.R.P. No. 797 of 2006 is also allowed which is a revision filed against the

dismissal of the application filed for rejection of the plaint.

14. In the decision relied upon by the learned Counsel for the Respondents reported in (2009) 1 MLJ 1328, Dhanalakshmi Financiers v.

Soundarammal and Ors. , this Court has held as follows:

... The Court should exercise its judicial discretion while considering as to whether time should be granted or not. Cases where the Plaintiff wrongly

(bona fide mistake) valued under particular provisions of law under Court Fee Act or where he could not pay the required Court fee for the reason

beyond his control, due to some bona fide reasons, the Court shall condone the delay. Payment of substantial Court fee is a circumstance, which

will go in favour of the claim of the Plaintiff that a bona fide mistake has crept in.

14. The above said guideline is applicable to the case on hand. The Plaintiff has not adduced any reasons for paying Court fee of Rs. 100/- at the

time of filing of suit and nextly when the Court had granted time for payment of deficit Court fee on the first occasion, while the plaint was returned,

the Plaintiff should have assigned bona fide reasons so as to enable the Court to consider condonation of delay. But that circumstance would arise

only if the period of limitation is available even after the representation is made before the Court. In the present case, the plaint itself was filed on

the last date of limitation and the Plaintiff should have been vigilant enough to pay the Court fee in entirety and there is no justification on his part to

make the Court to return his plaint for affixing deficit Court fee. In this context, it has to be construed that if the return of the plaint happened at the

behest of the Plaintiff, the plaint should be deemed to have been barred by limitation. This event is enough to infer lack of bona fides on the part of

the Plaintiff.

17. On the factual features also, the Plaintiff has miserably failed to explain the reason for delay. It is held that the plaint was presented out of time

with proper Court fee, thereby the valuable right was accrued to the Defendant by that time and hence it would to be held that the Plaintiff has to

be non-suited for the relief of condonation of delay.

15. On considering the decision reported in K. Natarajan Vs. P.K. Rajasekaran, I am of the view that the revision Petitioners must have file an

application u/s 149 Code of CPC for extension of time for payment of deficit Court fee. Admittedly, the revision Petitioners have not filed an

application to extend the time for payment of deficit Court fee within the time granted by the Court. But, he filed an application u/s 151 of Code of

CPC to condone the delay of 729 days in representing the plaint.

16. The learned Counsel for the Petitioners relied on the above decisions and would submit that the trial court instead of rejecting the plaint, it

ought to have returned the plaint, directing the Plaintiff to file a petition u/s 149 Code of CPC It is well settled principle of law that ignorance of law

is not an excuse. Ignorance implies passiveness. Mistake implies action. Ignorance does not pretend to knowledge, but mistake assumes to know.

Ignorance may be the result of laches, which is criminal. Mistake argues diligence, which is commendable. Mere ignorance is no mistake, yet a

mistake always involves ignorance, but not that alone.

17. A transaction may be set aside by reason of mistake of law, but not by reason of ignorance of law. Here, he must know the consequences of

not paying the court fee in time. He has not represented the plaint in time. He represented the plaint with a delay of 729 days with an application

u/s 151 of Code of CPC to condone the delay of 729 days in representing the plaint. But, the revision Petitioners must have file an application u/s

149 Code of CPC for extension of time for payment of deficit Court fee. So, he cannot claim that it is a mistake committed by the Court. Hence,

the decision relied upon by the learned Counsel appearing for the Petitioners reported in Mansoor and Others Vs. Bagavathi Ammal, , has no

relevance. Hence, as per the decision reported in K. Natarajan Vs. P.K. Rajasekaran, , I am of the view that the revision Petitioner has filed the

suit on the last date of limitation with the Court fee of Rs. 100/-, even then, without filing any application u/s 149 Code of Civil Procedure, the

Court has granted two weeks time for payment of deficit court fee as well as for rectifying the other defects. But, he has not represented the plaint

in time. He represented the plaint with a delay of 729 days along with a petition u/s 151 Code of CPC He had not filed any application u/s 149

Code of CPC to extend the time for payment of court fee. In such circumstances, I do not find any merits in this Civil Revision Petition. So, I am of

the view that the rejection order passed by the trial court is correct, fair and proper and it does not warrant interference.

18. Furthermore, in the application in I.A. No. 253 of 2006 filed u/s 151 of Code of CPC to condone the delay of 729 days, the trial court has

considered the fact that the first Petitioner/Plaintiff has not filed any document to show that he was ill and therefore, the trial court has considered all

the aspects in a proper perspective and had come to the correct conclusion and order passed by the trial court is unassailable one. So, I was

forced to concur with the findings of the trial court. Hence, this Civil Revision petition is liable to be dismissed.

19. In fine,

i. this Civil Revision Petition is dismissed.

ii. No costs.