

A. Periyasamy Vs A. Krishnasamy

Court: Madras High Court (Madurai Bench)

Date of Decision: Oct. 20, 2011

Hon'ble Judges: M. Jaichandren, J

Bench: Single Bench

Advocate: S.K. appadurai, for the Appellant; G. Krishnamoorthy, for the Respondent

Final Decision: Allowed

Judgement

@JUDGMENTTAG-ORDER

Honourable Mr. Justice M. Jaichandren

1. This Civil Revision Petition has been filed against the order, dated 5.1.2009, made in I.A.No.181 of 2008, in the unnumbered suit, on the file of

the District Munsif Court, Periyakulam.

2. The petitioner herein had filed the suit on the file of the District Munsif Court, Periyakulam, to recover the amount of Rs.85,000/-, along with the

interest thereon, based on a promissory note. From the records available before this Court it is seen that the petitioner herein, who is the plaintiff in

the unnumbered suit, had filed the said suit, on 13.7.2006, without paying the required Court fee and without getting the Court seal affixed.

Therefore, it had been returned for its proper representation. Thereafter, it had been represented, only on 12.6.2008. Thus, there has been a delay

of nearly 655 days in the representation of the suit. The petitioner had stated that the delay had been caused due to the fact that he could not

contact his counsel, as he had been ill, due to jaundice. It has been further stated that the petitioner could not produce sufficient documentary

evidence to substantiate his claim that he was unwell, due to jaundice, as he had been getting the necessary treatment, locally, from various

persons, who are not qualified medical practitioners.

3. The learned counsel appearing on behalf of the respondent had submitted that the averments made on behalf of the petitioner cannot be accepted

in view of the fact that no documentary evidence had been produced to substantiate his claims, with regard to his illness. Further, the suit filed by the

petitioner, on the file of the District Munsif Court, Periyakulam, said to be based on a promissory note, is barred by limitation.

4. In view of the averments made on behalf of the petitioner, as well as the respondent and in view of the records available, it is seen that,

eventhough there has been a substantial amount of delay in the representation of the records relating to the suit reasonable cause has been shown

by the petitioner, for such delay. Therefore, this Court finds it appropriate to set aside the order, dated 5.1.2009, made in I.A.No.181 of 2008,

and to condone the delay in representing the matter, on the petitioner paying a sum of Rs.1,500/- (Rupees one thousand five hundred only) to the

respondent, within a period of two weeks from the date of receipt of a copy of this order. On such compliance, the learned District Munsif Court,

Periyakulam, is directed to number the suit and to hear and dispose of the same, in accordance with the relevant provision of law. However, it is

made clear that it would be open to the learned District Munsif to examine the issue of limitation raised by the respondent in the filing of the suit,

and to give his own finding, independently, without being influenced by the observations made by this Court, in the present order. Accordingly, the

Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.