

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
CHENGALPATTU DISTRICT.**

Present : **Tmt.J.Mavis Deepika Sundaravadhana, M.A.,M.L.,**
Principal District Judge, Chengalpattu.

Wednesday the 24th day of April 2024

I.A.No.2/2022
in
Trust O.P.No.274/2012

G.Ramalakshmi . . . Petitioner / Petitioner.

/Vs/

A.Satyadevi . . . Respondent / Respondent.

This petition came up before me in this court for final hearing on 11.03.2024, in the presence of Tvl.S.V.Ramamurthi, P.Ravishankar and Mrs.Durgadevi, Advocates for the petitioner, and Thiru.N.Ravi, Advocate for the respondent, upon hearing the arguments of both side counsel, perusing the entire records, and having stood over for consideration till this day, this court delivers the following,

ORDER

This petition is filed by the petitioner under Order 9 Rule 9 CPC, to restore the Trust OP No.274/2012 which was dismissed on 25.2.2020 for default.

2. **The case of the petitioner in brief :**

The petitioner is the petitioner in the above Trust Original Petition. The above mentioned case was listed before this court on

25.2.2020 for cross examination of PW1, the petitioner. However the petitioner was not able to attend the court proceedings on the above said date due to her personal inconvenience and she was also taking treatments for various ailments. On the above said date, the petitioner's counsel appeared before this court and submitted the above bonafide reasons. But this court rejected the petitioner's counsel's submissions and consequentially the above said matter was dismissed for default on 25.2.2020. If the above petition is not restored, the petitioner would be put to irreparable loss and great hardships. Hence, the petition.

3. The brief averments of counter filed by the respondent :

The case stands posted to enquiry on 19.2.2014, later adjourned to 10.3.2014, 27.3.2014, 15.4.2014, 4.6.2014, 10.7.2014, 7.8.2014, 17.9.2014 and 30.10.2014 and for all the hearings the petitioner was not at all ready and finally the petition stands posted to 2.12.2014. On that day there was no representation on the side of petitioner, the petitioner was called absent and the petition was dismissed for default. Later the petitioner has filed IA 58/2015 for restoration and the same was allowed on 25.3.2015. Later the OP was posted to 17.6.2015 for enquiry and adjourned to 8.10.2015, 2.12.2015, 29.1.2016, 23.2.2016, 27.4.2016, 14.6.2016, 12.7.2016, 17.8.2016, 2.9.2016, 17.10.2016, 5.11.2016 due to non appearance of the petitioner. Subsequently the petitioner filed IA 959/2016

for reception of documents and the same was allowed on 14.3.2017 and once again the OP stands posted to 12.4.2017 and again on 17.6.2017 for enquiry. On that day Thiru.K.S.Anbazhagan, Advocate now he is no more has filed vakalath on behalf of the petitioner and the case has been adjourned to 1.7.2017, further adjourned to 2.8.2017, 19.8.2017, 7.9.2017, 12.10.2017, 30.11.2017, 19.1.2018, 8.2.2018, 3.3.2018, 18.4.2018, 18.6.2018, 2.7.2018, 7.8.2018, 12.9.2018, 3.10.2018 for enquiry. On 11.10.2018 the petitioner has been examined on proof affidavit for marking of documents and the case posted to 23.10.2018, 30.10.2018, 19.11.2018 and 23.11.2018, 6.12.2018, 13.12.2018, 3.1.2019, 22.1.2019 and on 2.2.2019 for filing of additional proof affidavit. On 5.2.2019 the additional proof affidavit has been filed, documents marked and the case posted for cross on 12.2.2019. It has been adjourned to 25.2.2019, 4.4.2019, 16.4.2019 and on 18.6.2019 it is passed over for cross of PW1 and the petitioner was not present and adjourned to 16.7.2019. On that day Mr.Sathish Babu Advocate filed change of vakalat and the petition was adjourned to 20.8.2019. Subsequently it was adjourned to 13.9.2019 and posted to 25.9.2019. On that day, PW1 cross examined in part for continuation posted to 24.10.2019, and on that day the petitioner was not present and the case adjourned to 13.11.2019 for cross examination. On that day Mr.Nathan Associates filed change of vakalat. Hence, it has been

adjourned to 16.12.2019 for cross examination. Later, it was adjourned to 10.1.2020. On that day PW1 not present, hence the case has been adjourned to 25.2.2020 on which day also PW1 not present. Hence, petition was dismissed for default. These things clearly prove the lethargic attitude of the petitioner. The petitioner filed this OP in the year 2012 and she is not vigilant in conducting the case and dragging on the proceedings for the past 10 years by changing counsels frequently. The petitioner is not at all interested and ready to conduct the case, only to harass this respondent has filed this vexatious petition and successfully drag on the proceedings for the past 10 years without any progress. Hence the petition is devoid of merits and the same is liable to be dismissed. Hence, prayed for dismissal of petition.

4. The point that arises for consideration is whether the application is liable to be allowed.

5. Point :

This petition is filed to restore the OP which was dismissed for default on 25.2.2020. The petitioner is the petitioner in the main OP. The reason for dismissal stated by the petitioner that there is a change of counsel in the year 2019 and also applied for certified copies which was not received by her counsel.

6. She further states when the case was listed on 25.2.2020 for cross examination, she was unable to attend the court on account of personal inconvenience as she was taking treatment. It is objected in the counter that the case was posted for enquiry on nine occasions, finally it was posted on 2.12.2014. It is alleged on all the nine occasions the petitioner not present, therefore finally it was posted on 2.12.2014. Thereafter in the year 2015 it was again adjourned for eleven times. The petition in I.A.No.959/2016 was allowed on 14.3.2017. The advocate one Thiru.Anbazhagan filed change of vakalat, inspite of change of vakalat the case was adjourned fifteen times in the year 2017 and 2018. Lastly on 11.10.2018, the petitioner was examined by proof affidavit and for marking of documents, it was adjourned for four times. Thereafter the case was adjourned again for four times for filing additional proof affidavit.

7. Thereafter it was posted for cross examination on 12.2.2019 and adjourned for four times. On 16.7.2019 one Thiru.Sathish Babu filed change of vakalat and the OP was adjourned to 13.9.2019 and thereafter posted to 25.9.2019, even thereafter it was adjourned on 24.10.2019. Since the petitioner was not present, the case was adjourned to 13.11.2019. Obviously, thereafter an advocate from Nathan Associates filed change of vakalat. Thereafter it was adjourned to 16.12.2019 and 10.2.2020 thereafter

to 25.2.2020. It is alleged only on 25.2.2020, since PW1 was not present, the petition was dismissed for default.

8. From the averments in the counter it is evident the intention of the petitioner is to drag the matter and wasted the court's valuable time. It is alleged the case was dragged for ten years, with the help of judicial machinery.

9. The petitioner herein caused great hardship not only to the respondent but also to the court which supposed to concentrate on the matters where genuine litigation has to be sorted out. The petitioner used the incapacity of the court of his misdeeds. The petitioner for the reason known to her dragged the case and wasted the time of court as well as the respondent. The machinery of justice is being abused by an unscrupulous person like the petitioner. Therefore, the petition is liable to be dismissed as no merits in this application.

10. **As the result, petition dismissed. No costs.**

Dictated by me to the steno-typist, computerized by her directly, corrected and pronounced by me in open court, on this the 24th day of April 2024.

Principal District Judge,
Chengalpattu.

Both side witnesses and exhibits :
Nil.

Principal District Judge,
Chengalpattu.