



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Wednesday, the Twentieth day of July Two Thousand Sixteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CMP(MD) No.1478 of 2016
IN
CRP(MD) No.602 of 2005

MADUBALA @ SUGANTHI

... PETITIONER

Vs

1 JEEVARATHINAMMAL
2 THIRUCHUNAN

... RESPONDENTS

Petition filed under Section 5 of Limitation Act, praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 1352 days in filing the petition to restore CRP(MD)NO. 602 of 2005 dismissed as against 1st respondent herein on 23/04/2012.

Prayer in CRP(MD)No.602/2005 :

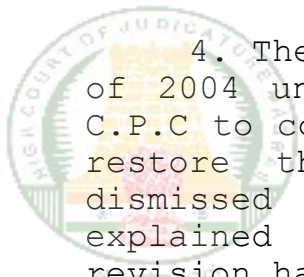
To allow the Civil Revision Petition and set aside the order passed in I.A.No.78/2004 in P.O.P.No.14 of 1992 dated 03.11.2004 on the file of Sub Court, Ambasamuthiram.

ORDER : This petition coming on for hearing on this day, upon perusing the petition and the affidavit filed in support thereof and the earlier order of this Court and upon hearing the arguments of M/S. C.GODWIN, Advocate for the petitioner and this Court made the following order:

This petition has been filed to condone the delay of 1352 days in filing the petition to restore C.R.P.No.602 of 2005 which was dismissed for non-prosecution on 23.04.2012.

2. Heard the learned counsel for the petitioner and perused the materials available on record.

3. It is seen from the records that the petitioner filed Proper Original Petition in P.O.P No.14 of 1992 for declation of her title to the property and for recovery of possession. The Sub Court, Ambasamudram directed the petitioner to pay the court fee of Rs.7534.25 under Section 25-A of Tamilnadu Court Fees and Suit Valuation Act on or before 15.03.2001. However, due to the default of payment of court fee, the Original Petition came to be dismissed



4. Thereafter, the petitioner filed an application in I.A.No.78 of 2004 under Section 5 of Limitation Act and under Section 151 C.P.C to condone the delay of 1750 days in filing an application to restore the Proper Original Petition. The learned Sub Judge dismissed the said application observing that the delay was not explained by the petitioner. Challenging the order, the present revision has been filed.

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5. It is further seen that when the revision petition was listed for hearing on 19.04.2012, the learned counsel, who was appearing for the petitioner, was absent and the revision was dismissed for non-prosecution on 23.04.2012. This application is filed in the year 2016 to restore the revision dismissed for non-prosecution in the year 2012 except stating that due to inadvertence of the counsel the case was not argued, there is no other explanation given in the affidavit filed in support of the petition.

6. Taking into consideration the above facts, this Court is of the view that the petitioner has not shown sufficient cause for condoning the delay.

7. In the result, CMP(MD) No.1478 of 2016 in CRP(MD) No.602 of 2005 is dismissed.

sd/-

Assistant Registrar (Records)

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

To

The Subordinate Judge, Ambasamuthiram, Tirunelveli District.

ORDER DATED : 20.07.2016

ORDER

CMP(MD) No.1478 of 2016
IN
CRP NPD(MD) No.602 of 2005
Giving directions and etc.,
as stated wtihin.

JM/SK-SKN/SAR-III/28.07.2016/2P-2C