



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P.(MD)No.471 of 2014

BALAMMAL

.. PETITIONER/PETITIONER/
PLAINTIFF

Vs

NARAYANAN (DIED)

1 DEIVATHAI
2 AMUTHA
3 KUMANAN
4 BANUMATHI
5 ELANGO VAN

.. RESPONDENTS/RESPONDENTS 2 TO 6/
DEDENDANTS 2 TO 6

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in IA.No.1698/2010 in OS.No.531/2000 dated 07.10.2013 on the file of Principal District Munsif Court, Tirunelveli.

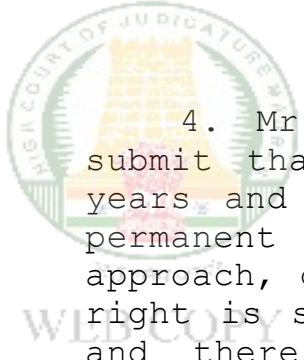
For Petitioner : Mr.H.Arumugam
For R-4 : No appearance.
R1 to 2, R5 : given up

ORDER

This Revision is directed against the order passed by the Principal District Munsif, Thirunelveli in I.A.No.1698 of 2010 in O.S.No.531 of 2000, dated 07.10.2013.

2. Heard the learned counsel for the petitioner and perused the records.

3. The petitioner filed a suit in O.S.No.531 of 2000, against the respondents for declaration of title and permanent injunction. The suit came to be returned on the ground of pecuniary jurisdiction. The petitioner presented the plaint before the Subordinate Court, Thirunelveli and in the interregnum period, the pecuniary jurisdiction of the District Munsif Court was enhanced from Rs.30,000/- to Rs.1,00,000/-. So, the plaint was returned by the learned Subordinate Judge for presentation before the concerned Court. The petitioner presented the plaint before the District Munsif Court with a delay of 1187 days. The application in IA.No.1698 of 2010 filed to condone the delay was dismissed on the ground that each and every day's delay was not explained by the petitioner.



4. Mr.H.Arumugam, learned counsel for the petitioner would submit that the petitioner is a senior citizen, aged about 77 years and the suit was filed for declaration of title and for permanent injunction, the Trial Court by adopting hyper technical approach, dismissed the application. It is further submitted that right is still available to the petitioner to file a fresh suit and there is no deliberate negligence on the part of the petitioner and therefore, the delay can be condoned on payment of reasonable cost.

5. Though the notice has been served to the fourth respondent and his name is printed, he has not chosen to appear either in person or through counsel and contest the case. The other respondents are given up by filing a memo dated 31.08.2015.

6. It is seen from the records that the petitioner is a senior citizen and she instituted the suit before the Munsif Court for declaration of title and permanent injunction. The plaint was returned on the ground that the value of the property exceeded Rs.30,000/-. After enhancement of pecuniary jurisdiction, the petitioner re-presented the suit papers with a delay. There is nothing on record to suggest that the delay has occurred due to neither deliberate negligence of the petitioner nor she has adopted dilatory tactics and thereby she gained.

7. Taking into consideration the above facts and the prayer sought for in the suit, I am of the opinion, she should be given opportunity to pursue her case and her right cannot be nipped in the bud.

8. In such view of the matter, the delay of 1187 days in re-representation is condoned and I.A.No.1698 of 2010 in O.S.No.531 of 2000 is allowed on payment of cost of Rs.5,000/- (Rupees Five Thousand only). The petitioner is directed to pay the said cost to Tamil Nadu Harijan Sevak Sangh, N.M.R. Subbaraman Memorial Residential Primary School Campus, 12, Dr.Thangaraj Road, Vinayaga Nagar, Opposite to Madurai Law College, Madurai 20, Cell No.9994657433, within a period of four weeks from the date on which the order copy is made ready, failing which, the I.A.No.1698 of 2010 in O.S.No.531 of 2000 shall stand dismissed automatically without further reference to this Court.

9. On such compliance, the learned Principal District Munsif, Thirunelveli shall dispose of the application in I.A.No.1698 of 2010 in O.S.No.531 of 2000 on merits in accordance with law.

10. **In fine**, the Civil Revision Petition is allowed.

Sd/-

Assistant Registrar(P&A)

/True copy/



To

The Principal District Munsif Court, Tirunelveli.

+1cc to Mr.H.Arumugam, Advocate SR.No.45722

pmu

sm:PV:14/10/2016:3P/3C

C.R.P. (MD) No.471 of 2014
18.08.2016