



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.07.2016

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

C.R.P. (MD) No.1422 of 2016

1	V.LAKSHMI	
2	V.DHANRAJ	
3	V.CHELLAMUTHU	
4	V.VALLI	
5	V.KANNAN	.. PETITIONERS/PROPOSED PARTIES

Vs

V.PANDI	.. RESPONDENT
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Prayer: Petition filed under Section 115 of Indian Constitution, to prefer the set aside the fair and decreetal order dated 02.08.2014 in I.A.No.168 of 2013 in I.A.No.207 of 2010 in A.S.No.Unnumbered of 2010 on the file of the Principal Sub Judge, Madurai.

For Petitioners	: Mr.A.L.Kannan
For Respondent	: Mr.Suresh Kumar Issac Paul

ORDER

This Revision arises out of the order passed by the Principal Subordinate Judge, Madurai, in I.A.No.168 of 2013 in I.A.No.207 of 2010 in unnumbered Appeal Suit, dated 02.08.2014.

2. Heard both sides and perused the entire materials available on record.

3. The father of the petitioners, namely, Veeranan instituted a suit against the respondent before the District Munsif Court, Madurai, in O.S.No.154 of 2002 for declaration of title and for permanent injunction. The suit came to be dismissed on merits on 28.10.2009. Aggrieved over the Judgment and decree, the plaintiff preferred an appeal before the Subordinate Court, Madurai along with the petition in I.A.No.207 of 2010 for condoning the delay of 223 days and during the pendency of the said petition, he died. The learned Appellate Judge, on 06.07.2011 condoned the delay of 223 days on payment of cost of Rs.500/- on or before 19.07.2011. Due to non-compliance of the order, the petition was dismissed.



4. Subsequently, the petitioners filed I.A.No.168 of 2013 to condone the delay of 606 days in filling the petition to set aside the abatement in I.A.No.207 of 2010 stating that they are the legal heirs of the deceased Veeranan. The learned Subordinate Judge dismissed the application observing that the petitioners who were aware of the pendency of the appeal, have not taken immediate steps and the delay was not properly explained.

5. The learned counsel for the petitioners would submit that the suit was filed for declaration of title in respect of the land to an extent of 1 acre 61 cents in R.S.No.223/10 of Parambupatti Village and they should be given opportunity to pursue the appeal and they are ready to pay reasonable cost.

6. It is seen that there was no material to suggest, the petitioners have adopted dilated tactics and the delay was occurred due to deliberate negligence of the petitioners. Admittedly, the suit has been filed claiming title to the immovable property.

7. Considering the above said submissions and the prayer sought for in the suit, this Court is inclined to allow the application in I.A.No.168 of 2013 on payment of cost of Rs.5,000/- (Rupees Five Thousand only). The petitioners shall pay the said cost to the respondent within a period of two weeks from the date on which the order copy is made ready, failing which, the I.A.No.168 of 2013 in I.A.No.207 of 2010 in unnumbered Appeal Suit shall stand dismissed automatically, without further reference to this Court.

8. **In fine**, the Civil Revision Petition is disposed of, accordingly. No costs.

Sd/-

Assistant Registrar (Records)

/True Copy/

Sub Assistant Registrar

To

The Principal Subordinate Judge,
Madurai.

+ 1 CC TO Mr.VR.SHANMUGANATHAN, ADVOCATE IN SR No. 39923

PMU

TE/SKS-RR/SAR-III : 25/10/2016 : 2P/3C