



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.04.2017

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WEB COPY

C.M.P(MD)No.1099 of 2016inC.R.P(MD) SR No.1700 of 2016

Gnanaselvam

... Petitioner / Petitioner
/Respondent

Vs.

1.Krishnammal

... Respondent / Respondent
/ Appellant

Somasundaram Chettiar (Died)

And hence LR's

2. krishnan

3. Appadurai

... Respondents / Respondents/
Respondents

Prayer in C.M.P(MD)No.1099 of 2016 Civil Miscellaneous Petition filed under section 5 of Limitation Act, to condone the delay of 37 days in filing Civil Revision Petition before this Court against the fair and decreetal order made in C.M.A.No.8 of 2006 dated 22.07.2015 on the file of the 1st Additional District Judge, Tirunelveli and thus render justice.

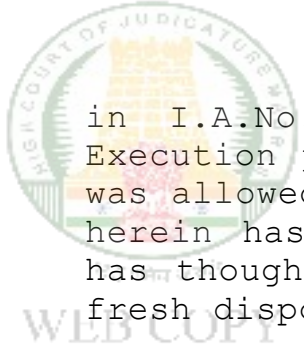
Prayer in C.R.P(MD) SR No.1700 of 2016 Civil Revision Petition filed under section 115 of Civil Producer Code, to revise the fair and Decreetal order of the Learned 1st Additional District and Sessions Judge, Tirunelveli dated 22.07.2015 made in C.M.A.No.8 of 2006 setting aside the order of the Learned Principal Subordinate Judge, Tirunelveli dated 05.08.2005 made in E.A.No.502 of 2005 in E.P.No.193 of 2002 in O.S.No.147 of 1985 and consequently remanding the same to the said court for further enquiry as well as adduce oral evidence by the parties forthwith and conclude the proceeding within a time frame of 3 months.

For Petitioner : No Appearance

For Respondents : No Appearance

ORDER

This petition is taken out by the revision petitioner to condone the delay of 37 days in filing the Revision petition against the fair and decreetal order made in C.M.A.No.8/2006 dated 22.07.2015 arising out of the interlocutory order passed in Execution Application. On a perusal of the affidavit filed in support of the petition, it is seen that the petitioner is not party to the suit but, he claims himself to be in possession and enjoyment of the property. Pending suit, an Execution application



in I.A.No.502/2005 has been filed before the said Court in Execution petition No.193/2002 and the said Execution Application was allowed on 05.08.2005. Aggrieved by that, the first respondent herein has filed C.M.A.No.8 of 2006 wherein the Appellate Court has thought it fit that the matter has to be remanded back for fresh disposal of E.A.No.502 of 2005.

2. It is claimed that the said remand order is detrimental to the revision petitioner. The revision petition is filed with the delay of 37 days. The reason stated for the delay is that the petitioner was not in a position to travel from Panagudi to meet the counsel at Madurai, since he was taking continuous treatment due to his old age. The age of the petitioner is stated in the petition as 55 years. There is no substantial material to show that he was suffering from any disease and taking treatment which effectively prevented him from filing the Civil Revision Petition in time. Therefore this court is not inclined to condone the delay. Hence, the Civil Miscellaneous Petition is dismissed. Consequently, the Civil Revision Petition is rejected at the SR stage itself. No Costs.

Sd/-
Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

1st Additional District and Sessions Judge,
Tirunelveli.

+1 CC to M/s.S.PALANIVELAYUTHAM, Advocate, SR No. 19808

SM/CP
JS/SKN/3.05.2017/2P-3C

C.M.P (MD) No.1099 of 2016
and
C.R.P (MD) SR No.1700 of 2016
07.04.2017