



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 20.04.2017

CORAM :

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

WEB COPY

C.M.P. (MD) .No.2755 of 2017
in
C.R.P. (MD) No.12475 of 2015

C.Virumayee ... Petitioner/Petitioner
vs.

V.Ramachandran (Died)
R.Panchavarnam ... Respondent/Respondent

Prayer: The Civil Miscellaneous Petition is filed under Order IV Rule 9(4) of Appellate Side Rules, to condone the delay of 633 days in representing the Civil Revision Petition in C.R.P.S.R.No.12475 of 2015.

Prayer: The Civil Revision Petition is filed under Section 115 of Civil Procedure Code against the fair and decreetal order dated 07.11.2014 made in I.A.No.266 of 2012 in A.S.No.125 of 2010 on the file of the Principal Sub Court, Madurai, dismissing the petition filed to appoint an Advocate Commissioner to fix the suit property by measuring with specific measurements and boundaries and also to note down the physical features of the suit property.

For Petitioner : Mr.J.Lawrance

O R D E R

The application I.A.No.266 of 2012 has been filed for appointment of an Advocate Commissioner under Order 26 Rule 9 r/w. Section 151 of C.P.C., pending disposal of the appeal was dismissed along with the first appeal. Aggrieved by that, the present revision petition is filed against I.A.No.266 of 2012, dismissing the I.A.No.266 of 2010 to appoint an advocate commissioner. This Court has returned the papers for certain defects. Instead of representing the papers in time, the petitioner herein has represented the revision petition papers after delay of 663 days. The reason for the delay of 663 days in representation is narrated in para-8 of the the affidavit.

"8. I submit that on 16.03.2015 the aforesaid Civil Revision Petition in C.R.P.SR. (MD).No.12475 of 2015 was filed before this Hon'ble Court. On 19.03.2015 the office of this Hon'ble Court returned the papers for certain defects. I submit that during that period my counsel has



carried out some renovation works in his office as his office was in dilapidated condition and at that juncture the bundle was mingled with some other bundles and he was not able to trace out the same immediately and only on 21.12.2016 my counsel was able to find out my revision bundle and thereafter on 21.12.2016 the above said revision has been represented. In these circumstances, there is a delay of 633 days in representing the above Civil Revision Petition."

2. The vague explanation for the delay is not convincing. Further, after dismissal of the main appeal, any grievance on dismissal of the Interlocutory Application should be agitated by the parties in the further appeal and not by way of revision. On this ground also the Miscellaneous Petition has become infructuous, since the Revision Petition itself is not maintainable. Hence, these petitions are dismissed. No costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To
The Principal Sub Court,
Madurai.

C.M.P. (MD) .No.2755 of 2017
in

C.R.P. (MD) No.12475 of 2015
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