



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

Wednesday, the Fifth day of April Two Thousand Seventeen

PRESENT

WEB COPY

The Hon`ble Mr.Justice N.SESHASAYEE

CMP (MD) No.453 of 2017
IN
SA (MD) No.SR2614 of 2016

G.MUTHU VIJAYAKUMAR ... PETITIONER/APPELLANT

Vs

1 N.SUBRAMANIAN
2 K.R.RAVICHANDRAN
3 KRISHNAVENI

4 TN WATER SUPPLY AND DRAINAGE BOARD,
REP BY ITS SUPERINTENDING ENGINEER,
(TRICHY AND PUDUKKOTTAI CIRCLE), CANTONMENT,
TIRUCHIRAPPALLI-620 001.

5 LIC HOUSING FINANCE LTD.,
REP BY ITS AREA MANAGER,
SETHU RUKMANI COMPLEX,
SALAI ROAD, TIRUCHIRAPPALLI-620 003.

6 SAROJINI ... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 956 days in filing the above appeal.

PRAYER IN SA (MD) No.SR2614 of 2016:

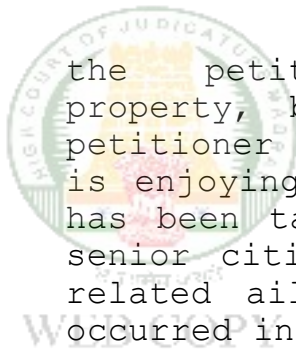
To set aside the decree and judgment passed in A.S.No:74/2011 on the file of Principal District Court, Tiruchirappalli dated 31.08.2012 confirming the decree and judgment passed in O.S.No.26/2003 on the file of I Additional Subordinate Court, Tiruchirappalli dated 12.11.2010.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.V.K.VIJAYARAGAVAN, Advocate for the petitioner and of M/R.H.LAKSHMI SANKAR on behalf of the Respondent 3 the court made the following order:-

This petition has been preferred by one of the plaintiffs who had lost un - successfully before both the Courts below. The suit was laid for declaration of title and recovery of possession.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The learned counsel appearing for the petitioner submitted that originally, there are three plaintiffs viz., the petitioner herein, his mother and grand-mother. After the demise of the grand mother, subsequent to the decree of the first appellate Court,



the petitioner had become entitled to her share in the suit property, by virtue of settlement deed executed by her. The petitioner herein has averred that he was working in Australia and he is enjoying the dual citizenship and that his interest in the suit has been taken care of by his mother. However, his mother is a senior citizen and suffers from high blood pressure and other age related ailments. As consequences, the delay of 956 days had occurred in preferring the appeal.

3. Per contra, the learned counsel appearing for the third respondent very vehemently contended that the mother, who has arrayed as second plaintiff before the Court below and who is, admittedly taking care of petitioner's interest in the suit properties has been prosecuting another suit, in respect of the same property as Power of Attorney Holder. Therefore, there is no sufficient reason adduced for condoning the delay.

4. After hearing the rival submissions, this Court is of the view that it will be in the interest of justice, one more opportunity is given to the petitioner to contest the case on merits. Therefore, this petition has to be allowed, subject to the following terms:-

5. Accordingly, the petition is allowed on payment of cost of Rs.2000/- (Rupees Two Thousand only) to the learned counsel for the third respondent and a further sum of Rs.2,000/- (Rupees Two Thousand only) to be deposited in the Indian Bank, Madurai Bench of Madras High Court, Madurai, under SB Account No.6514082295, operated by the Registrar (Administration) for Removal of Seemai Karuvelam Trees, within a period of two weeks from the date of receipt of a copy of this order, failing which the CMP shall stand dismissed automatically without any further reference to this Court.

sd/-
05/04/2017

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

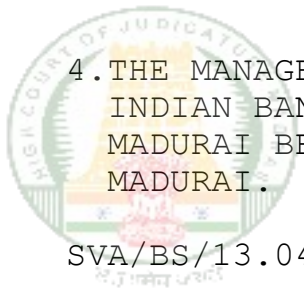
TO

1.THE PRINCIPAL DISTRICT JUDGE,
TIRUCHIRAPPALLI.

2.THE ADDITIONAL SUBORDNATE JUDGE,
TIRUCHIRAPPALLI.

<https://hcservices.ecourts.gov.in/hcservices/>

3.THE REGISTRAR[ADMINISTRATION]
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.



4.THE MANAGER,
INDIAN BANK,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

SVA/BS/13.04.2017/SAR4/3P/5C

WEB COPY

ORDER

IN

CMP (MD) No.453 of 2017

IN

SA (MD) No.SR2614 of 2016

Date :05/04/2017