



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2017

CORAM

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THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.R.P (NPD) (MD) No.1148 of 2017

P.Ramachandran

.. Petitioner

Vs.

1.Sri Vanamamalai Mutt

Rep. By its present Madathipathi,
His Holiness Sri Vanamamalai
Ramanuja Jeer Swamigal & Sri
Vanamamalai Mutt at Nanguneri
through his Power Agent
G.Sadagopan.

2.L.Venkatesan (Died)

3.Ramachandra Babu

4.Narayana Iyengar

5.Nagalakshmi

6.B.Nagaveni

7.B.Radha Rani @ Rajathi

8.V.Chandramohan

9.V.Suresh Kumar

10.M.Kanchana

(Notice given up for R2 to R10)

.. Respondents

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order passed in I.A.No.363 of 2013 in A.S.No.137 of 2004 by the IV Additional District Judge, Madurai dated 17.11.2016 and order the Appeal to be restored to file.

For Petitioner

: No Appearance

For Respondents

: Mr.V.Ramakrishnan for Caveator

ORDER

There is no representation for the revision petitioner. The respondents entered appearance as caveator is present. Heard the learned counsel for the respondents/Caveator and the documents produced.

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2. This revision petition is directed against the order passed in I.A.No.363 of 2013 in A.S.No.137 of 2004 by the IV Additional District Judge, Madurai dated 17.11.2016, dismissing the application filed under Section 5 of the Limitation Act, to condone the delay of 1890 days in filing the petition to restore A.S.No.13 of 2004 on the file which was dismissed for default on 12.09.2007. The suit in O.S.No.363 of 2013 which was filed in the year 1996 was decreed against the revision petitioner on 30.04.2004. Aggrieved by that, the revision petitioner filed an appeal suit in A.S.No.137 of 2004, but it was dismissed for default due to non-prosecution on 12.09.2007. After a delay of 1890 days, the appellant in A.S.No.137 of 2004 who is the revision petitioner herein, filed I.A.No.363 of 2013 seeking to condone the delay in filing an application to set aside the order of dismissal. Since, the delay was enormous, the Court below has examined the parties to find out if there is sufficient cause to condone the delay. After appreciating the evidence, the Court below has arrived at the conclusion that the petitioner with a malafide intention filed the application to condone the delay of 1890 days in seeking to set aside the order of dismissal with undue delay and even for representing the returned papers the petitioner has taken a long time. However, he has been participating and conducting the trial in a parallel proceedings knowing fully well that the appeal is dismissed for default.

3. I do not find any error in the impugned order and this Court finds no reason to entertain this revision petition. Hence, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CSIII)

/True Copy/

Sub-Assistant Registrar

To

The IVth Additional District Judge, Madurai.

Mrn/mm

RL/2C/2P/KP/SAR1/11/7/2017

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