

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 19TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A. No.5302 of 2018

in

O.P. No.519 of 2014

In the matter of Indian
Succession Act XXXIX of 1925

And

In the matter of the Last Will &
Testament of P.Swarnalatha
(Deceased)

Mrs.Janaki Ramadoss
W/o.Ramadass
West Street,
Aghraharam,
Velavanur,
Villupuram Taluk and District.

... Applicant/Petitioner

VS

1. J.sunderesan
S/o. Jagadeesan
1A, Nethaji Nagar,
Thiruvanmiyur
Chennai.

2. J.Sankaran
S/o.Jagadeesan
No.54, South End Road,
Near New Indian Express Office
Ambattur,
Chennai.

...Respondents/Respondents

A.No.5302 of 2018

Application praying that this Hon'ble Court be pleased to Condoning the delay of 799 days of the setting aside the order dated 04.01.2016 in O.P.No.519 of 2014.

for hearing, the court made the following order:

This application has been filed to condone delay of 799 days in filing application to set aside the Order dated 04.01.2016 in O.P.No.519 of 2014, which has been dismissed for default and to set aside the Order dated 04.01.2016.

2. The allegation in the affidavit goes to show that petitioner is primarily a resident of America and she has engaged one Advocate Mr.Madhanagopal for filing a petition for Letters of Administration in respect of the Will left by her sister Swarnalatha. It is the further contention of the applicant that the advocate some how or other was interested only in collecting huge money from her and collected to the tune of Rs.11,71,485/- by way of money transfer through bank and also through western money transfer. Having collected such a huge amount, he has not paid any amount to the stamp duty in O.P.No.519 of 2014 and whenever, the applicant contacted the advocate, he has given only evasive replies. Only during the applicant's visit to India during February, 2018, she came to know that the above petition was dismissed for non prosecution as the stamp duty has not been paid. A copy of the money transfer document has also been filed to show that from the year 2014, various amounts have been transferred by the petitioner to her advocate Madangopal. The transfer of money is evidenced in the above documents. In fact, the above documents substantiate the allegations of the applicant in the affidavit.

3. It is the duty of the counsel who received such amounts from the clients, who is residing in abroad to, follow the case scruplesly and keep the client informed the developments. The legal profession commands respect mainly due to the trust and confidence reposed on the advocates.

profession, we cannot find fault with the litigant. Hence, I am of the view that the petitioner has satisfied this Court to condone the delay.

4. Accordingly, the delay is condoned and the Order dated 04.01.2016 in O.P.No.519 of 2014 is set aside and this application is allowed. It is for the petitioner to take recourse against the counsel for the alleged breach of trust and misuse of the funds before appropriate forum.

5. Post the Original Petition before the Master for further proceedings on 10.08.2018.

Sd/.N.S.K.J

19.07.2018

//Certified to be a true copy//

Dated this the th day of 2018.

KY/06.08.2018/

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.

सत्यमेव जयते

WEB COPY