



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.06.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P. (PD) (MD) No.999 of 2018

and

C.M.P (MD) No.4350 of 2018

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Sajin,
S/o.Vargheese,
Elikuttiparavilai Veedu,
Kozhiporevilai, Thachakkode,
Kanyakumari District
Rep. by power holder
T.Vanithabai
W/o.Sajin,
Elikuttiparavilai Veedu,
Kozhiporevilai, Thachakkode,
Kanyakumari District. ... Petitioner/Petitioner/Defendant
(Cause title accepted, vide court order dated 26.04.2018 made in
CMP (MD) 11091/17 in CRP (MD) SR 40985/17)

Vs.

Vargheese ...Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair and Decreetal Order passed in I.A.No.554 of 2016 in O.S.No.129 of 2015, dated 18.03.2017, on the file of the Sub Court, Padbanabapuram.

For Petitioner : Mr.G.Cenil
For Respondent : Mr.B.Brijeshkishore

O R D E R

The petitioner/defendant has filed this Civil Revision Petition challenging the order passed by the Sub Court, Padbanabapuram, in I.A.No.554 of 2016 in O.S.No.129 of 2015, dated 18.03.2017.

2.Heard Mr.G.Cenil, learned counsel appearing for the petitioner and Mr.B.Brijesh Kishore, learned counsel appearing for the respondent.

3.The petitioner is the defendant in the suit in O.S.No.129 of 2015. The respondent as Plaintiff has filed a suit in O.S.No.129 of 2015 before the District Sub-Court, Padmanabhapuram, for partition. The above said suit was dismissed for default on 23.11.2015. Therefore, the petitioner/defendant filed an



application in I.A.No.554 of 2016 for condoning the delay of 214 days in filing the set aside application. The said application was dismissed on 18.03.2017 stating that the petitioner has not given any valid reason to condone the delay. Challenging the said order of dismissal, the petitioner has filed the present Civil Revision Petition.

4.Though the respondent, who is the father of the petitioner, is thrown out from the property and he is aged about 68 years and is suffering without any ailment from the petitioner, this Court is inclined to allow the said application and the same should be compensated by the petitioner by way of cost of Rs.2,000/-.

5.Accordingly, the Civil Revision Petition is allowed and the order passed by the Sub Judge, Padmanabhapuram in I.A.No.554 of 2016 in O.S.No.129 of 2015, dated 18.03.2017 is set aside and the petitioner is directed to pay a sum of Rs.2,000/- towards cost to the respondent, within a period of one week from the date of receipt of a copy of this order. On production of payment receipt, the learned Sub Judge, Padmanabhapuram is directed to number the set aside application and to dispose the same within a period of two weeks from the date of production of payment receipt. Further, the learned Sub-Judge, Padmanabhapuram is directed to dispose of the suit in O.S.No.129 of 2015 by conducting trial on day-to-day basis without giving unnecessary adjournments to either of the parties, within a period of three months, thereafter. No Costs. Consequently, connected Miscellaneous Petition is closed.

Sd/

Assistant Registrar(Writs)

/True copy/

Sub Assistant Registrar

To

The Subordinate Judge,
Sub Court,
Padmanabhapuram.

+1cc to Mr.G.Cenil, Advocate, SR.No. 69175

C.R.P. (NPD) (MD) No.999 of 2018
21.06.2018

AM

KK/RSK/SAR-1/12.07.2018/2P-3C/