



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.08.2018

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) .No.460 of 2017

1. Perumal Konar
2. Vellaiyappan

... Petitioners/Petitioners/
Appellants

Vs.

1. Sethuramalingam
2. Karuppasamy
3. Kaliraj
4. Marisamy
5. Annathai

... Respondents/Respondents/
Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the records pertaining to the order and decretal order dated 10.11.2016 passed in I.A.No.74 of 2015 in unnumbered A.S.No. of 2015 by the learned Subordinate Judge, Sankarankovil and to set aside the same by allowing this Civil Revision petition.

For Petitioners	: Mr.Sukumar, for Mr.R.Rajamohan
For Respondents	: No appearance.

ORDER

The Revision petitioners were shown as defendants in O.S. No.203 of 2010 on the file of the Court of the Principal District Munsif, Sankarankovil.

2. The said suit was decreed on 04.10.2013. Aggrieved by the same, the Revision petitioners herein filed an appeal before the Subordinate Court, Sankarankovil. There was a delay of 369 days in filing the appeal. Therefore, the petitioners herein took out I.A. No.74 of 2015 for condoning the said delay in presenting the first appeal. The first Appellate Court dismissed the said application for condoning the delay on the ground that sufficient cause was not made out. Aggrieved by the order dated 10.11.2016 dismissing the I.A.No.74 of 2015, this Civil Revision petition has been filed.



3. Heard the learned counsel appearing for the Revision petitioners.

4. The names of the respondents herein are printed. But no one has entered appearance.

5. This Court is of the view that delay in this case cannot be said to be inordinate. The suit is one for declaration and permanent injunction. On the side of the Revision petitioners, a registered document of the year 1970 was marked. On the other hand, the plaintiffs had laid their suit on the strength of revenue records alone. It was a contested suit, since the valuable property rights are involved.

6. This Court is of the view that a lenient approach deserves to be adopted.

7. The Revision petitioners have taken a stand that they had gone away to Kerala for eking out their livelihood. That is why, they could not file the appeal in time.

8. Finding force in the said submission, this Court is of the view that the sufficient cause for condonation of the delay has been made out. The impugned order dated 10.11.2016, in I.A.No.74 of 2015 passed by the learned Subordinate Judge, Sankarankovil, is set aside.

9. The Civil Revision petition stands allowed, accordingly. The first appellate Court is directed to number the first appeal and dispose of the same in accordance with law. No costs.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

1. The Subordinate Judge,
Sankarankovil.

2. The Record Keeper, V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+ 1 CC TO Mr.R.RAJAMOHAN, ADVOCATE IN SR No. 77289

PMU

TE/RP/SAR-3 : 21/08/2018 : 2P/5C