



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) No.549 of 2017

K.J.Christalin Mercy

...Revision Petitioner/Petitioner/
Appellant

-Vs-

1.Krishnakumari
2.Janet Bai
3.Jeevakumar

... Respondents/Respondents
/ Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the order and decreetal order passed in I.A.No.157 of 2010 in A.S.SR.No.3647 of 2010 dated 15.02.2012 on the file of the District Judge Kanyakumari at Nagercoil.

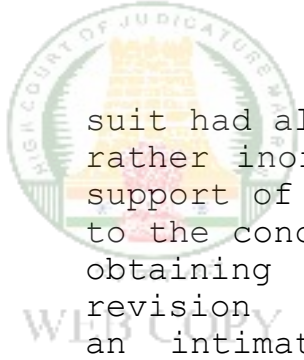
For Petitioner : Mr.K.Sreekumaran Nair
For R1 : Mr.K.P.Narayanakumar

ORDER

The first respondent herein filed O.S.No.77 of 2004 before the District Munsif, Kuzhithurai against the respondents herein, seeking relief of specific performance. The suit was decreed on 27.06.2006. Subsequently the first respondent filed EP for getting sale deed registered through Court. At this stage, the revision petitioner herein filed a claim petition under Order 21 Rule 58 CPC. The same was dismissed. Since the claim petition was filed under Order 21 Rule 58 CPC, only an appeal would lie. But, there was a delay of 863 days in filing the said appeal. The lower appellate Court by the impugned order dated 15.02.2012 dismissed I.A.No.157 of 2010 in A.S.SR.No.3647 of 2010 filed by the revision petitioner for condoning the delay. Questioning the same, this CRP has been filed.

2.Heard the learned counsel on either side.

3.This Court is of the view that the order passed by the Court below deserves to be sustained. The Court below has observed that the revision petitioner herein had already filed a partition suit in O.S.No.497 of 2005 in respect of her 1/5th share and that the said



suit had already been decreed. That apart, the delay of 863 days is rather inordinate. This Court went through the affidavit filed in support of the condone delay petition. The Court below rightly came to the conclusion that sufficient cause has not been made out. After obtaining the certified copy of the order rejecting the revision petitioner's claim petition, her counsel has sent an intimation. But, the revision petitioner would file an affidavit stating that she did not receive the same. The reasons set out in affidavit filed in support of the condone delay petition is not genuine. The court below was right in dismissing the petition.

4.The reasons set out by the petitioner are not acceptable. This Court is of the view that no case has been made out to interfere with the impugned order. Hence, this Civil Revision Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-III)

To:

The District Judge Kanyakumari at Nagercoil.

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TA
ES/RP/SAR 3/18.09.2018/2P/2C