



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2018

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) No.1567 of 2016
and C.M.P. (MD) No.7615 of 2016

Ramasamy Pillai

... Petitioner/Petitioner/Appellant/
(Defendant in suit)

Vs

1.Vinothkumar

2.Natesh Kumar

3.Gomathi Ramkumar

... Respondents/Respondents/
Respondents (Plaintiff in suit)

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C Praying to call for the records pertaining to the order dated on 30.06.2016 in I.A.No.250 of 2013 in A.S(SR).No.5565 of 2013 on the file of the District Court, Kanyakumari District at Nagercoil and set aside the same.

For Petitioner : Mr.T.Lajapathi Roy
For Respondents : Mr.K.Sreekumaran Nair

O R D E R

The revision petitioner is the defendant in O.S.No.94 of 2006 on the file of the Subordinate Court, Padmanabhapuram. The plaintiffs are none other than the sons of the revision petitioner. The preliminary decree was passed on 04.10.2010. Questioning the same, the revision petitioner has filed A.S.Sr.No.5565 of 2013 before the District Court, Kanyakumari District at Nagercoil. However, there was a delay of 1046 days in filing the said appeal. To condone the delay I.A. No.250 of 2013 is filed. The court below dismissed the said Interlocutory Application on 30.06.2016. Questioning the same, this Civil Revision Petition has been filed.

2. The suit, from which the first appeal arises, is one for partition. The revision petitioner is none other than the father of the plaintiffs. When a decree has been passed by the court of the first instance, the aggrieved party is entitled to contest the correctness of the same by filing a first appeal. The appeal is continuation of the original proceedings. Therefore, liberal approach ought to have been adopted. This Court is convinced that the reasons set out in the affidavit filed in support of the said Interlocutory Application make out a sufficient cause. In view of the same, the order impugned in this Civil Revision Petition is



set aside. The first appellat Court is directed to number the first appeal. Since the suit is of the year 2006, the first appeal shall be disposed of in accordance with law and disposed of expeditiously.

3. In the result, this Civil Revision Petition is allowed. No costs. Consequently, C.M.P.(MD)No.7615 of 2016 is closed.

Sd/-

Assistant Registrar (RTI)

// True Copy //

Sub Assistant Registrar(CS-III)

To

1. District Court,
Kanyakumari District at Nagercoil.
2. The Record Keeper,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.(2 Copies)

- + 1 CC TO MR.T.LAJAPATHI ROY, ADVOCATE IN SR NO.84399
- + 1 CC TO MR.K.SREEKUMARAN NAIR , ADVOCATE IN SR NO.84256

CM

BU/PM/SAR-III :25.10.2018 : 2P/6C

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