



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.2354 of 2016

1. Nangiappan
2. Kombaiah

... Petitioners/Petitioners/
Appellants

Vs.

1. Selvarathnam
2. Mohaideen
3. Nadarajan

... Respondents/Respondents/
Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 12.08.2016 passed in I.A.No.280 of 2013 in unregistered Appeal suit on the file of the Principal Sub Court, Tirunelveli.

For Petitioners	: Mr.M.P.Senthil
For R-1 & R-3	: Mr.S.P.Maharajan
For R-2	: Dispensed with.

O R D E R

The Revision petitioners are defendants 2 and 3 in O.S.No.547 of 2004 on the file of the District Munsif Court, Tirunelveli. The suit is one for declaration and permanent injunction. The suit was decreed on 04.11.2011. Questioning the same, the Revision petitioners filed an appeal before the Principal Subordinate Court, Tirunelveli. But the first appeal was not filed in time. There was a delay of 68 days in filing the first appeal. For rectifying certain defects, the appeal papers were returned. They were re-presented. But then, there was a delay of 401 days in re-presenting the appeal memorandum. To condone the delay, an application was filed in I.A.No.280 of 2013. The said application was dismissed by order dated 12.08.2016. Questioning the same, this Civil Revision petition has been filed.

2. Heard the learned counsel on either side.

<https://hcservices.ecourts.gov.in/hcservices/>

3. It appears that the first petitioner herein passed away.



The learned counsel for the Revision petitioners submitted that he wants to take steps for bringing the legal heirs of the first petitioner on record.

4. This Court is of the view that the order passed by the Court below cannot be faulted. This is because, it was the counsel who filed the affidavit in support of I.A.No.280 of 2013. Therefore, even while sustaining the order impugned in this Civil Revision petition, liberty is given to the second petitioner and the legal heirs of the first petitioner to file a fresh Interlocutory application for re-presentation of the appeal papers. The time taken in filing I.A.No.280 of 2013 and this Civil Revision petition will be excluded while computing the delay.

5. With this liberty, the Civil Revision petition stands dismissed. No costs.

Sd/-
Assistant Registrar (Writs)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The Principal Subordinate Judge,
Tirunelveli.

Copy To:-

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

+ 1 CC TO Mr.S.P.MAHARAJAN, ADVOCATE IN SR No. 86134
+ 1 CC TO Mr.M.P.SENTHIL, ADVOCATE IN SR No. 86294

PMU
TE/PM/SAR-3 : 25/10/2018 : 2P/6C

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