



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2018

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) .No.2152 of 2018

and

C.M.P. (MD) No.9536 of 2018

Meera Mohideen

... Petitioner

Vs.

1.M.Sikkandar

2.M.Syed Ibrahim(died)

3.M.Sarbudeen

4.Kurshith Begam

... Respondents

PRAYER: Petition filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 31.01.2018 passed by the IV Additional District Judge, Madurai in I.A.No.910 of 2017 in A.S.No.38 of 2015 allowing the petition to condone the delay of 378 days (from 21.08.2013 to 04.09.2014) in presenting the appeal memorandum on his file, allow the Civil Revision Petition with cost.

For Petitioner : Mr.R.A.Mohanram

ORDER

O.S.No.566 of 2007 on the file of the Principal Subordinate Judge, Madurai was instituted by the revision petitioner herein seeking the relief of partition. Preliminary decree was passed therein. Thereafter, final decree was also passed. Questioning the final decree dated 23.07.2013, the first respondent herein filed A.S.No.38 of 2015 before the IV Additional District Judge, Madurai. Much later it was realised that there was a delay in filing the first appeal. Without noticing the same, the appeal got numbered. Therefore, to condone the delay I.A.No.910 of 2017 was filed. The First Appellate Judge allowed the said I.A., by the order impugned in this Civil Revision Petition.

2.Heard the learned counsel appearing for the revision petitioner who reiterated the contentions set out in the memorandum.

3.The Court below rightly held that procedure is only a hand maid of justice and therefore merely because the appeal was filed with delay, condone delay petition cannot now be thrown out. The order passed by the Court below is equitable in nature and does not call for any interference.



4. Accordingly, this Civil Revision Petition is dismissed.
No costs. Consequently, connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar (AD-I)

Sub Assistant Registrar (CS-II)

To

1. The Principal Subordinate Judge,
Madurai.
2. The IV Additional District Judge,
Madurai.

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