

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.4207 of 2013 and
M.P.No.1 of 2013

Ajmal Neesa

... Petitioner

v.

1.Hyder Ali

2.Mariam Beevi

3. Moosa

4. Akbar Badhusha

5. Juliha Banu

... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order dated 30.10.2012 made in I.A.No.2205 of 2010 in O.S.No.506 of 2004 on the file of the District Munsif , Pollachi, Coimbatore District.

For Petitioner : Mr.M.Saravanan
for Mr.C.Veeraraghavan

For Respondents : No Appearance for R1 & R2
R3 to R5 – Not Ready in Notice.

ORDER

Challenging the fair and final order passed in I.A.No.2205 of 2010 in O.S.No.506 of 2004 on the file of the District Munsif Court, Pollachi, the 1st defendant has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.506 of 2004 for partition and for other reliefs. The defendants filed their written statement and were contesting the suit.

3. When the suit was posted for trial on 04.08.2009, the plaintiff failed to appear before the Trial Court and hence, the suit was dismissed for default on 04.08.2009.

4. Thereafter, the plaintiff filed an application in I.A.No.2205 of 2010 to condone the delay of 203 days in filing the application to restore the suit. In the affidavit filed in support of the application, the petitioner has stated that he was suffering from jaundice from 03.08.2009 and was taking native treatment. The defendants filed their written statement and contested the application.

5. The Trial court, taking into consideration the case of both the parties, condoned the delay and allowed the application in I.A.No.2205 of 2010 finding that the suit is for partition and therefore, in order to given an opportunity to the plaintiff, the suit should be restored to file.

6. Since the plaintiff has given sufficient reason for condoning the delay of 203 days, the Trial court, has rightly allowed the application.

7. In these circumstances, I do not find any reason to interfere with the order passed by the Trial Court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.09.2019

Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The District Munsif Court,
Pollachi,
Coimbatore District.

C.R.P.(NPD).No.4207 of 2013

M.DURAISWAMY, J.

Rj

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