

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.12.2019

Coram

THE HONOURABLE MR. JUSTICE **M.M.SUNDRESH**
and
THE HONOURABLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.M.P.No.17061 of 2019
in
A.S.SR.No.46860 of 2019

A.Ulaganathan

... Petitioner

vs.

1.V.Lakshmi
2.Murugan
3.Appayee
4.Joseph Gunaseelan
5.V.S.Ravichandran

6.M/s.Adityan Electronics,
No.7, Thirumalai Nagar,
Valasaravakkam,
Alwar Thirunagar,
Maduravoyal Taluk,
Chennai - 87.

7.Madhu Fancy Stores,
No.7, Thirumalai Nagar,
Valasaravakkam,
Alwar Thirunagar,
Maduravoyal Taluk,
Chennai - 87.

8.Thyagarajan

9.Padma
10.Ponnurangam
11.Meenakshi
12.Mangai

.. Respondents

Petition filed under Section 5 of Limitation Act to condone the delay of 938 days in preferring the appeal against the judgment and decree dated 01.06.2016 passed in O.S.No.225 of 2014 on the file of the III Additional District Judge, Tiruvallur at Poonamallee.

For Petitioner .. Mr.S.Sadasharam

For Respondents .. Mr.Jayaraman

ORDER

(Order of the Court was made by **M.M.SUNDRESH, J.**)

Petitioner is the first defendant in the suit filed for partition and separate possession and the suit was decreed on 01.06.2016. The present petition has been filed seeking to condone the delay of 938 days in filing the appeal on the premise that the petitioner was suffering from severe diabetes, ulcer and stomach pain.

2.We have perused the affidavit filed in support of the petition seeking condonation of delay.

3.The petition is bereft of material particulars. There is no record to show the alleged illness of the petitioner. The alleged ailment is not so serious even to sign the papers. After all, there is no need for the physical presence of the appellant in the conduct of the appeal. What was required by him was to sign the vakalat and the affidavit along with memorandum of appeal and the remaining aspects would have been taken care by his counsel. More than three years have elapsed since passing of the preliminary decree. Now, yet another round of litigation will have to go in the form of final decree proceedings. Thus, we are not inclined to allow this petition. Accordingly, this petition stands dismissed. Consequently, the first appeal is dismissed at the S.R. stage.

(M.M.S.J.) (K.R.J.)

03.12.2019

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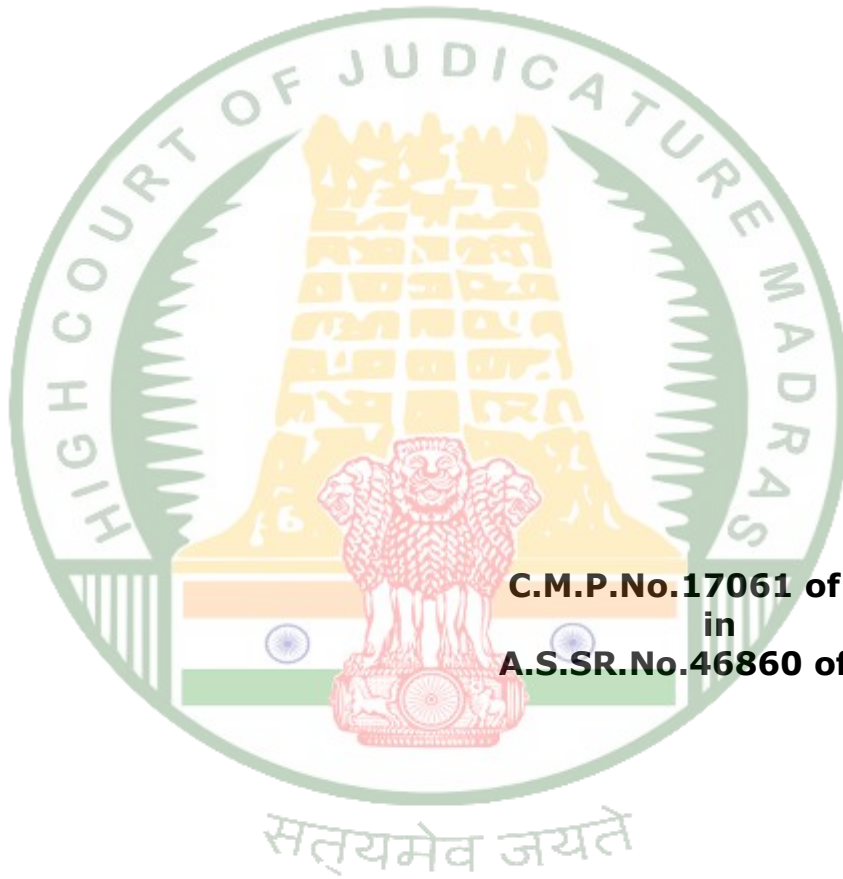
To

The III Additional District Judge,
Tiruvallur at Poonamallee.

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**M.M.SUNDRESH, J.
and
KRISHNAN RAMASAMY, J.**

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