



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.04.2019

CORAM :

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.P. (MD) No.2555 of 2019

in

CRP (MD) No.SR37611 of 2018

and

CRP (MD) No.SR37611 of 2018

1.Duraisamy
2.Chinnaponnu
3.Sakthi
4.Nagammal

... Petitioners

vs.

Seenivasan (died)

1.Lakshmi
2.Jeyachitra
3.Velmurugan
4.Ramu
5.Sivakamu

... Respondents

PRAYER in C.M.P. (MD) No.2555 of 2019:- Civil Miscellaneous Petition filed under Order IV Rule 9 (4) of Appellate Side Rules, to condone the delay of 148 days in re-presenting the above said revision.

PRAYER in CRP (MD) No.SR37611 of 2018:- Civil Miscellaneous Appeal filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decreetal order dated 10.01.2013 passed in I.A.No.723 of 2012 in O.S.No.140 of 2002 by the District Munsif Court, Musiri.

For Petitioner : Mr.K.Govindarajan

ORDER

The Civil Miscellaneous Petition has been filed to condone the delay of 148 days in re-presenting the above said revision.

2.C.R.P.(MD) No.SR37611 of 2018 has been filed to set aside the order dated 10.01.2013 passed in I.A.No.723 of 2012 in O.S.No.140 of 2002 by the learned District Munsif, Musiri.

3.The reasons stated by the petitioners to condone the delay is that they have filed the above said revision on 04.09.2018 before this Court. The Registry returned the papers on 06.09.2018 stating that the rank of the petitioners and the respondents in the certified copy of decree to be corrected and for rectifying certain other compliances. The said allegations were also informed to the counsel and the correction in the certified copy was made amended on 30.01.2019 and the same was verified and signed by the Examiner. The certified copy was received in the First Week of February. Hence, the delay occurred.



4.From the records, it is seen that the above said revision was filed on 04.09.2018 and due to some correction, the same was returned by the Registry on 06.09.2018. Thereafter, the correction made in the certified copy was amended on 30.01.2019 and hence, the delay occurred, whereas, the petitioners have not filed any document in support of the same. Further, it is observed that I.A.No.723 of 2012 was filed by the petitioners to condone the delay of 1702 days to file a petition to set aside the ex parte decree dated 26.09.2009, which was passed as against the petitioners.

5.In the said I.A., after observing the contention raised on either side and perusing the records, the trial Court has given a finding that the petitioners without stating any valid reasons filed the petition to condone the delay and they have not preferred the proceedings in time and for the said delay, the petitioners bound to make explanation for each and every day delay and hence, the said petition was dismissed by the trial Court.

6.Now, the reasons stated by the petitioners are that they were held in Kerala and for their livelihood, they were doing coolie work and therefore, the abnormal delay was not properly explained by them before the trial Court and hence, aggrieved against the said dismissal, the petitioner has filed the present revision for the relief as stated above.

7.Considering the facts and circumstances of the case, this Court finds that on filing the above said revision, there is a delay, for which, no proper evidence or document has been filed by the petitioners. Hence, the relief sought by the petitioners cannot be granted since the order passed by the trial Court is very much reasonable.

8.This Civil Miscellaneous Petition is dismissed accordingly. Consequently, connected C.R.P.(MD) No.SR37611 of 2018 is also rejected at the SR stage itself. No costs.

sd/

Assistant Registrar(crl. Side)

/True Copy/

Sub Assistant Registrar

To
The District Munsif,
Musiri.

+1 CC to Mr.K.GOVINDARAJAN, Advocate (SR-61045[F] dated 15/04/2019)
C.M.P. (MD) No.2555 of 2019 in
CRP (MD) No.SR37611 of 2018 and
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