



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.04.2019

CORAM:

THE HONOURABLE MRS.JUSTICE S.RAMATHILAGAM

C.M.P. (MD) No.2956 of 2019

in

C.R.P. (MD) No.SR4959 of 2019

and

C.R.P. (MD) No.SR4959 of 2019

Nagarajan

... Petitioner/Petitioner

Vs.

1.Selvi

2.Minor Magesh

3.Minor Krishnaveni

... Respondents/Respondents

(2nd and 3rd Minors through their Mother and guardian Ist Respondent)

PRAYER in C.M.P. (MD) No.2956 of 2019: Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, to condone the delay of 993 days in filing the above said revision petition.

PRAYER in C.R.P. (MD) No.SR4959 of 2019: Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to call for the records relating to the fair and decreetal order made in I.A.No.759 of 2015 in O.S.No.277 of 2011, dated 02.02.2016 on the file of the learned Principal District Munsif, Valliyoor and set aside the same.

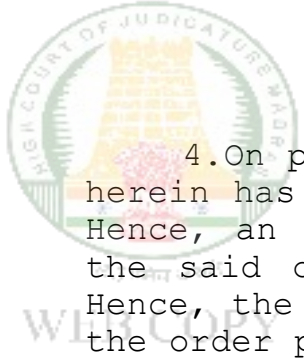
For Petitioner : Mr.S.R.Anbarasu

ORDER

This Civil Miscellaneous Petition has been preferred to condone the delay of 993 days in filing the above said revision.

2.C.R.P. (MD) No.SR4959 of 2019 has been preferred to set aside the order passed in I.A.No.759 of 2015 in O.S.No.277 of 2011, dated 02.02.2016 by the the learned Principal District Munsif, Valliyoor.

3.The said I.A., was filed by the petitioner to condone the delay of 512 days to file a petition to set aside the ex parte decree dated 13.09.2013. The reasons stated by the petitioner is that due to his ailment ie., Jaundice, he was not in a position to file his written statement and hence, if the case is heard and disposed of on merit, he would be put to lot of inconvenience, but regarding his ailment, he had not filed any document and examined any witnesses. The suit in O.S.No.277 of 2011 filed by the plaintiff for the relief of injunction against the defendants from interfering with his peaceful possession and enjoyment of the suit property and for the relief of mandatory injunction to demolish the construction made in the II schedule property by way of encroachment.



4. On perusal of the records, it is observed that the petitioner herein has taken nearly 21 months for filing his written statement. Hence, an ex parte order was passed on 21.06.2013 and after passing the said order, the petitioner herein never made any appearance. Hence, the delay is not very meagre and it is a huge delay. Hence, the order passed in I.A.No.759 of 2015 in O.S.No.277 of 2011, dated 02.02.2016 by the learned Principal District Munsif, Valliyoor, is very much reasonable, which does not warrant any interference of this Court.

5. This Civil Miscellaneous Petition is dismissed accordingly. Consequently, connected C.R.P.(MD)No.SR4959 of 2019 is rejected at the SR stage itself.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

To

The Principal District Munsif,
Valliyoor.

+1cc to Mr.S.R.Anbarasu, Advocate, SR.No. 59704

C.M.P. (MD) No.2956 of 2019
and
C.R.P. (MD) No.SR4959 of 2019

LS/MM

KK/SAR/27.04.2019/ 2P- 3C