



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2019

CORAM:

WEB COPY

THE HONOURABLE **MRS.JUSTICE S.RAMATHILAGAM**

C.R.P (PD) (MD) No.558 of 2019

Shanmugasundaram ... Petitioner/Petitioner/Plaintiff

Vs.

1. Ramadurai

2. Selva Sivakami

3. Chinnammal

... Respondents/Respondents/

Defendants

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the order of issuance of notice of condone delay petition in representation to the respondents by the learned sub-court sivagangai in I.A.No.633 of 2018 in O.S.S.R.No.5561 of 2018 (Unnumbered plaint) dated 29.11.2018.

For Petitioner : Mr.D.Parisuthanathan

ORDER

C.R.P.No.558 of 2019 has been filed by the petitioner against the docket order dated 29.11.2018 passed in I.A.No.633 of 2018 filed on the side of the revision petitioner in O.S.S.R.No.5561 of 2018.

2. The petitioner in the said I.A.No.633 of 2018 has stated that he filed a partition suit in O.S.No.3 of 2017 in respect of suit property and other properties and he realised the mistake in the said suit at very later point of time and hence, he filed a memo on 09.11.2017 to withdraw the suit in O.S.No.3 of 2017 with respect of the 1st and 2nd items of 'A' schedule properties. The said memo was also allowed on 20.06.2018. Since the petitioner was sick, he got a certified copy only on 28.08.2018 and hence, there was a delay of 299 days in representing the plaint after complying the returns.

3. The petitioner further contended that he has preferred the civil revision petition against the notes order. In the said notes order, the petitioner prayed to excuse the delay in representation the suit with delay of 299 days and the matter was posted for notice to the respondents 1 to 3. Whereas no batta was paid by the petitioner herein. This petitioner without complying the order of the trial Court, he has filed the same on 01.01.2019.



4. The grievance of the petitioner herein is that the delay in representing the plaint is only between the plaintiff and the Court and it is not necessary to issue notice to the respondents, since they are no way connected with the procedure of the Court.

5. On perusal of records, it is observed that already the petitioner filed a suit in O.S.No.3 of 2017 in which, the respondents also appeared and filed their written statement and subsequently filed a memo by this petitioner dated 20.06.2018 and the suit was withdrawn. The delay of 299 days were occurred in representing the plaint, for which, the petitioner stated the reason that he got certified copy of the order only on 20.08.2018, whereas the suit was filed on 23.11.2017, even before the receipt of the order passed in the memo.

6. In view of the above, there was no relevancy or explanation given by the petitioner for filing the subsequent suit with the delay of 299 days that too even before obtaining order in the memo. Hence, there was no proper reason given by the petitioner. Simply the petitioner contended that the delay in representation was occurred only because of the returns made by the concerned Court and there is no need for ordering notice to the respondents and the delay has to be proceeded only by the Court.

7. On perusal of records and facts and on hearing the representation made by the petitioner that already he has filed one suit and through memo, the same was withdrawn and even before getting the order in the memo, he filed a subsequent suit and the respondent also filed in the previous suit, the trial Court has ordered notice to the respondent is no way prejudice to the petitioner.

8. The petitioner has not complied the order of the trial Court paying batta and he has come forward with this civil revision petition and causing much more delay.

9. Accordingly, this civil revision petition is dismissed with cost of Rs.500/- (Rupees Five Hundred Only). The petitioner is directed to pay a sum of Rs.500/- to the credit of the Honourable Chief Justice Relief Fund, (payable in Accounts Section of the High Court Registry, Madurai Bench), within a period of two weeks from the date of receipt of a copy of this order and filed a photocopy of the receipt along with a memo reporting compliance in the Registry.

Sd/-

Assistant Registrar (Crl.Side)

// True Copy //



To

1. The Subordinate Judge,
Sivagangai.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court.
Madurai.

Copy to

1. The Section Officer,
Accounts Section,
Madurai Bench of Madras High Court.
Madurai.

2. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court.
Madurai.

+1Cc to Mr.D.Parisuthanathan, Advocate, SR.No.55576.

C.R.P (PD) (MD) No.558 of 2019

CS: 19/07/2019 3P 7C