



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.06.2019

CORAM

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THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P. (NPD) (MD) No.958 of 2019

Adaikalam

...Petitioner/Petitioner/Petitioner

-Vs-

1.Meyyathal
2.Maria Joseph
3.Meyyathal

...Respondents/Respondents/Respondents

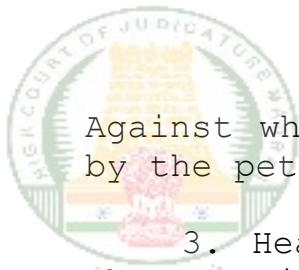
Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure against the fair and decreetal order dated 20.02.2019 in I.A.No.86 of 2019 in ASSR.No.320 of 2018 on the file of the Sub Court, Aranthangi.

For Petitioner : Mr.K.Baalasundharam

O R D E R

This Civil Revision Petition has been filed to set aside the order dated 20.02.2019 in I.A.No.86 of 2019 in ASSR.No.320 of 2018 on the file of the Sub Court, Aranthangi.

2. The learned counsel for the petitioner would state that the petitioner has filed a suit in O.S.No.108 of 2010 for declaration in respect of 1st item of suit property and for permanent injunction in respect of 2nd item of suit property against the respondents. After full contest, the learned trial Judge decreed the suit in favour of the petitioner in respect of 1st item of the suit property and dismissed the relief of permanent injunction in respect of 2nd item of the suit property. Against which, the first respondent herein has filed an appeal in A.S.No.5 of 2016 before the learned Subordinate Judge, Pudukkottai against the decreetal order passed in respect of 1st item of the suit property. The said appeal was transferred to the file of the Sub Court, Aranthangai and the same was renumbered as A.S.No.93 of 2017. In the said appeal, the petitioner herein filed a Cross Appeal in AS.SR.No.320 of 2018 with condone delay petition in I.A.No.86 of 2019 to condone the delay of 819 days in filing the cross appeal. The said I.A. was dismissed by the Court below.



Against which, the present Civil Revision Petition has been filed by the petitioner.

3. Heard the learned counsel for the petitioner and perused the materials available on record.

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4.A perusal of record shows that after filing of the appeal in A.S.No.93 of 2017 by the first respondent, the petitioner has appeared twice before the Appellate Court through his Counsel and conducted the case. It is seen that after a lapse of three months only, the condone delay petition has been filed to condone the delay of 819 days and the said petition was dismissed on the ground that the petitioner has not given valid and sufficient reasons to condone the delay in preferring the Cross Appeal, where I do not find any infirmity. Accordingly, this Civil Revision Petition is dismissed. No costs.

5.At this juncture, the learned Counsel for the petitioner would state that the dismissal of the application in I.A.No.86 of 2019 will stand in the way of the respondents to raise their objections in A.S.No.93 of 2017 and hence, he seeks liberty to raise all the objections in the appeal. Considering the submission made by the learned counsel for the petitioner, the learned Appellate Judge shall give an opportunity to the petitioner to raise all the objections in the appeal and pass orders, without adverting to the dismissal order passed in I.A.No.86 of 2019.

Sd/-

Assistant Registrar (AD-I)

// True Copy //

Sub Assistant Registrar(CS)

msa

To,

1.The Subordinate Judge
Aranthangi.

+1CC TO M/S.K.BALASUNDARAM , ADVOCATE, SR.NO.71058

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BUC(12.07.2019) 2P 3C