

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2020

CORAM

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRP.No. 931 of 2013

1.Kaveriammal
2.Senthilraj

..Petitioners

Vs

1.Poongavanam Ammal
2.Lakshmi
3.Babu Arunachalam
Baskar (Died)
4.Alamelu
5.Minor Loganayagi
6.Minor. Gangabavani
7.Minor. Yuvasri
(Respondents 5 to 7 are rep.by their
mother and legal guardian,
the 4th respondent)

..Respondents

Prayer : Civil Revision Petition is filed under Section 115 of CPC to set aside the order dated 09.10.2012 made in I.A.No.465 of 2010 in O.S.No.288 of 2004 on the file of the Additional District Munsif, Tiruvannamalai.

For Petitioners : M/s.Vedavallikumar

Ms.Vishnupriya Upendran

For Respondents : Notice send-No appearance

ORDER

The Civil Revision Petition is filed against the order dated 09.10.2012 made in I.A.No.465 of 2010 in O.S.No.288 of 2004 on the file of the Additional District Munsif, Tiruvannamalai.

2. Petitioners herein had filed a suit in O.S.No. 288 of 2004 on the file of the Additional District Munsif, Tiruvannamalai against the respondents herein for division of the suit properties into 10 equal shares by metes and bounds and allot one such share to the plaintiffs each and to appoint an Advocate Commissioner to effect the partition of the suit properties and also to direct the defendants to deliver the possession of the share allotted to the plaintiffs. The said suit was dismissed by the trial Court for default on 22.11.2004.

Subsequently, the petitioners herein have filed an application to condone the delay of 2050 days in filing petition to restore the above suit. The said application was also dismissed by the trial Court. Challenging the said order of dismissal, the plaintiffs/petitioners herein are before this Court.

3. Though sufficient opportunities are given, the learned counsel appearing for the petitioners is not ready with the case and seeks time. This Court is not inclined to grant further time. Perused the records available before this Court.

4. Admittedly, the suit in O.S.No. 288 of 2004, after filing written statement and framing issues, listed for trial on 22.11.2004. Since the petitioners did not appear and adduced any evidence, the suit was dismissed for default by the trial Court. Subsequently, the petitioners filed an application to condone the delay of 2050 days in filing restoration application by stating reasons that the 1st petitioner is a poor widow and left for chennai to work as coolie, therefore she could not appear before the trial Court on the crucial date i.e. on 22.11.2004.

5. The petitioner should have filed application within 30 days from the order of the dismissal to restore the suit. However, the petitioner has filed an application to condone the delay of 2015 days in filing application to restore the suit and had not produced any evidence to prove that she was not in station on the crucial date. Since, she being a plaintiff, she should have ascertain the status of her case on her own or through her counsel, without doing so, she cannot simply keep quite such a long days and file an application after inordinate delay of 2050 days and seeks restoration.

6. There is no satisfactory explanation stated by the petitioner for the inordinate delay of 2050 days in filing the said application. Further, no sufficient documents were filed to substantiate the reasons, which prevented her to file the said application within a stipulated period. Therefore, in the absence of any satisfactory reasons in the affidavit as well as any materials placed before the Court below, this Court does not find any reason to interfere with the order passed by the trial Court. Further, the condonation of delay is purely a discretion of the Court and in view of the absence of materials as discussed above, this Court is of the view that there is nothing warrants to interferes with the order passed by the trial Court by exercising its powers . This Court finds no perversity or illegality in the order passed by the trial Court and accordingly, the present petition is liable to be dismissed.

7. In the result, the Civil Revision Petition is dismissed.
No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

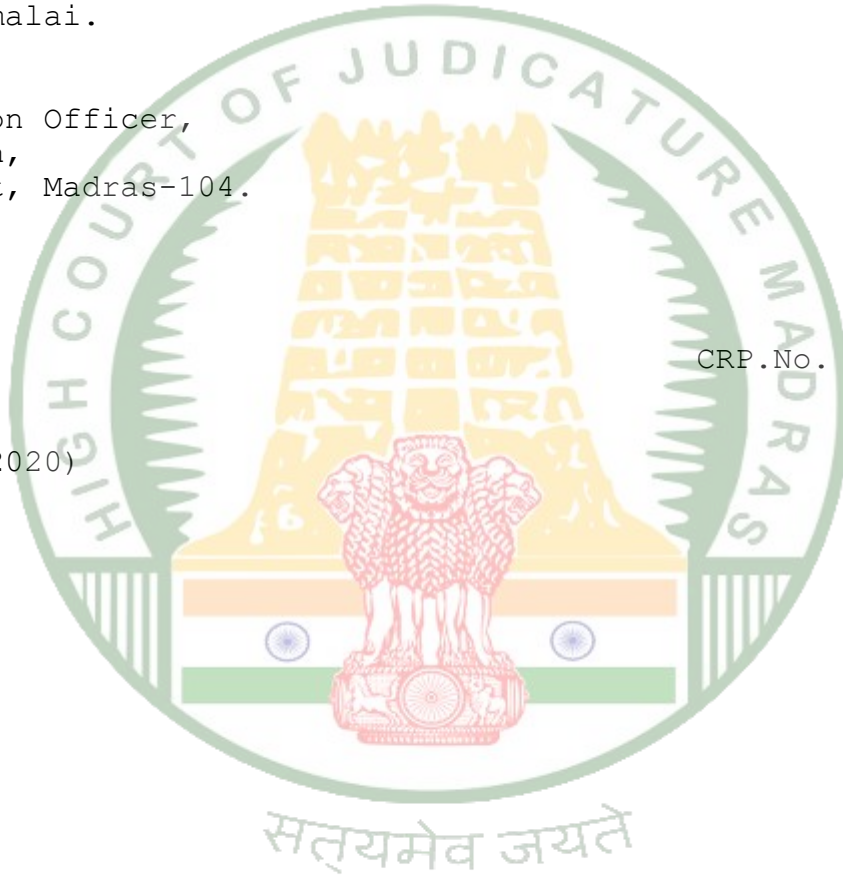
To

1.The Additional District Munsif,
Tiruvannamalai.

Copy to:
The Section Officer,
VR Section,
High Court, Madras-104.

CRP.No. 931 of 2013

RLD (CO)
RV (22/10/2020)



WEB COPY