

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2020

Coram

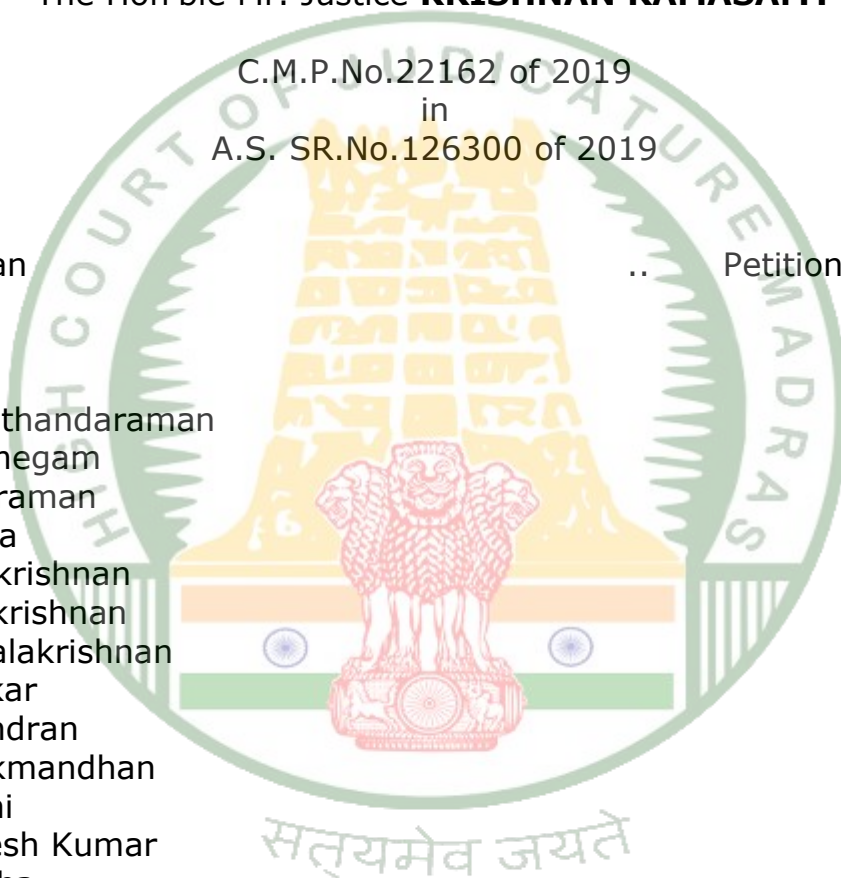
The Hon'ble Mr. Justice **M.M.SUNDRESH**
and
The Hon'ble Mr. Justice **KRISHNAN RAMASAMY**

C.M.P.No.22162 of 2019
in
A.S. SR.No.126300 of 2019

V.Kesavan

.. Petitioner

- 1.N.V.Kothandaraman
- 2.Neelamegam
- 3.R.Balaraman
- 4.G.Jeeva
- 5.B.Balakrishnan
- 6.B.Harikrishnan
- 7.B.Gopalakrishnan
- 8.B.Sankar
- 9.B.Jalendran
- 10.B.Rukmandhan
- 11.Santhi
- 12.Ramesh Kumar
- 13.Sujatha
- 14.Latha
- 15.S.Chandra
- 16.Radha
- 17.Sumathi
- 18.Shankar
- 19.Vasu
- 20.M.Purushothaman
- 21.Shanmugam
- 22.Raman
- 23.Lakshmanan



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24.Ravichandran
 25.T.Subramani
 26.S.Seetharaman
 27.S.Mandangopal
 28.S.Jayalashmi

.. Respondents

Petition filed to condone the delay of 1692 days in filing the appeal against the order dated 07.10.2014 made in O.S.No.26 of 2007 on the file of the III Additional District Judge, Thiruvallur at poonamallee.

For Petitioner .. Mr.M.S.Krishnan,
 Sr. Counsel
 for Mr.B.Deepak Narayanan
 For Respondents .. Mr.Vineet Subramani for R1
 R2 to R27 - Notice served

ORDER

(Order of the Court was made by **M.M.SUNDRESH, J.**)

सत्यमेव जयते

Petitioner/Appellant is the plaintiff in the suit. The suit has been filed for partition and separate possession. As against Item 1, the suit has been decreed whereas for Item 2, suit has been dismissed. Thus, the present appeal has been filed along with the petition to condone the delay of 1692 days in filing the appeal.

2.The judgment was delivered on 07.10.2014. The documents produced by the petitioner/appellant are pertaining to 2018 and thereafter. These documents would show that the petitioner/appellant has been suffering from heart disease and cancer. However, there is no document to show that from the date of judgment till the date of documents produced in the year 2018, he has been suffering from any illness and secondly, another appeal filed by the brother of the petitioner/appellant was also dismissed. It appears that only thereafter, the petitioner/appellant has come forward to file this petition. Learned senior counsel appearing for the petitioner/appellant submitted that this has been done after obtaining a copy of the order passed in that petition filed by the brother of the petitioner/appellant.

3.We do not find any reason to condone the delay, which is very huge. Though length of delay is not the sole reason for consideration, we are dealing with a case in which the huge delay which has not been explained properly. As such there is no document to show the illness of the petitioner/appellant from the date of petition till the date of records produced. If that is taken into consideration, the delay would be very huge. It is also settled position of law that in a suit for partition, every

party has got the status of plaintiff. Thus, the appeal filed by the brother of the petitioner/appellant having been dismissed, this petition is also liable to be dismissed. Further more, there is always a difference in conducting the suit and the appeal. In any case, the party is not required to conduct the case by himself and therefore, mostly it is being done through lawyer. What is required to be done by him is to sign vakalat and relevant papers and make ready the court fee. Thus, even on this ground, this petition deserves to be dismissed.

4. Accordingly, this petition is dismissed. Consequently, the appeal stands dismissed at the S.R. stage. No costs.

(M.M.S.J.,) (K.R.J.,)

09.01.2020

Index:Yes
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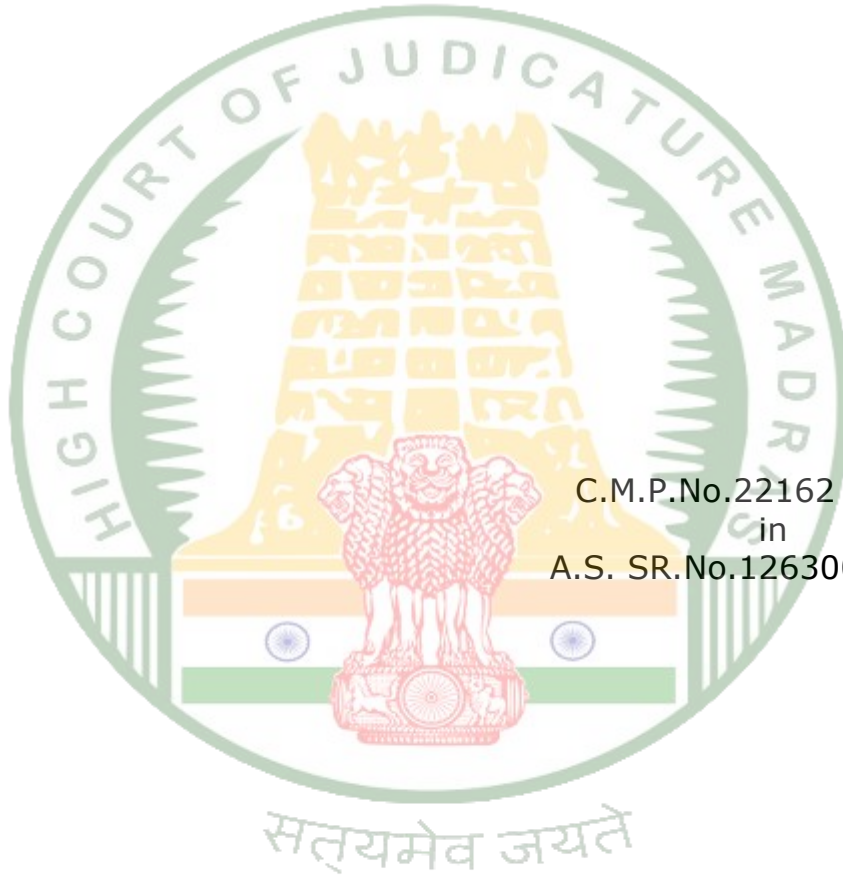
To

The III Additional District Judge,
Thiruvallur at Poonamallee.

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**M.M.SUNDRESH, J.
and
KRISHNAN RAMASAMY, J.**

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