



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Friday, the Tenth day of July Two Thousand Twenty

PRESENT

The Hon'ble Mr.Justice S.S.SUNDAR

CMP(MD) No.4728 of 2019

IN

CMA(MD) No.SR28180 of 2018

UCHIMALIAMMAL

... APPELLANT/PETITIONER

Vs

1 B.RAMESH

2 RAJAMMAL

... RESPONDENTS/RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to condone the delay of 171 days in filing the above C.M.A.S.R.No.28180 of 2018 against the order dated 11.08.2017 passed in I.A.No.148 of 2016 passed in O.S.No.32 of 2014 on the file of the IV Additional District Court, Thirunelveli and thus render justice.

Prayer in CMA(MD) No.SR28180 of 2018:

Pleased to set aside the order dated 11.08.2017 passed in I.A.No.148 of 2016 passed in O.S.No.32 of 2014 on the file of the IV Additional District Court, Thirunelveli.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.K.RAJESHWARAN.9942499558, Advocate for the petitioner and of Mr.H.ARUMUGAM, Advocate on behalf of the Respondents, the court made the following order:-

This petition is filed to condone the delay of 171 days in filing the above appeal against the order, dated 11.08.2017 in I.A.No.148 of 2016 in O.S.No.32 of 2014 on the file of the IV Additional District Court, Tirunelveli.

2.Heard learned Counsel appearing for the petitioner and the learned Counsel for the respondents.

3.Though the petitioner has given some explanations for the



delay, the learned Counsel for the respondents disputed the facts, which are cited as reasons for the delay. The petitioner is a widow and the dispute is among the relatives. The petitioner's explanation that there were settlement talks appears to be probable. Since the delay is 171 days in filing the appeal as against the order dismissing the petition to condone the delay in filing a petition to set aside the *ex parte* decree, this Court is of the view that the petitioner has failed to participate in the proceedings with due diligence and the delay at every stage cannot be accepted without putting the petitioner on terms. Though the reasons stated in the affidavit filed in support of this petition are convincing, this Court is inclined to allow this petition on terms.

4. Accordingly, this petition is allowed and the delay is condoned on condition that the petitioner pay a sum of Rs.2,000/- to the learned Counsel for the respondents within a period of two weeks from the date of receipt of a copy of this order, failing which, this petition will be dismissed automatically without any reference to this Court.

5. Registry is directed to number the main appeal, if the papers are otherwise in order and upon producing proof for payment.

sd/-
10/07/2020

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

THE IV ADDITIONAL DISTRICT JUDGE,
TIRUNELVELI.

ORDER
IN
CMP (MD) No.4728 of 2019
IN
CMA (MD) No.SR28180 of 2018
Date :10/07/2020

CMR
TE/VR/SAR-III : 14/07/2020 : 2P/2C