



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.03.2020

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THE HONOURABLE MR.JUSTICE **RMT. TEEKAA RAMAN**

C.M.P(MD) No.8311 of 2019

in

A.S (MD) No.SR 52181 of 2018

M.Mani

.... Petitioner/Appellant

Vs.

1.Palaniammal
2.Dhanalakshmi
3.K.Vengan
4.V.Kumaravel
5.V.Chinnathambi

... Respondents/Respondents

PRAYER (C.M.P(MD) No.8311 of 2019): Civil Miscellaneous petition filed under Section 5 of the Limitation Act, to condone the delay of 922 days in filing the appeal against the judgment and decree dated 16.02.2016 in O.S.No.82 of 2013 on the file of the Additional District Judge, Dindigul.

PRAYER (A.S (MD)No.SR 52181 of 2018): This Appeal Suit filed under Order 41 Rule 1 and Section 96 of the Code of Civil Procedure, against the judgment and decree in O.S.No.82 of 2013 dated 16.02.2016 on the file of the Additional District Judge, Dindigul.

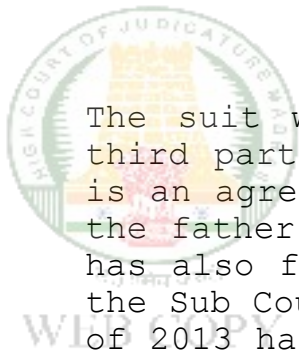
For Petitioner : Mr.R.S.Sivaram
For R-1 and R-2 : Mr.J.Madhu
For R-3 to R-5 : Mr.Vino Sathaya Lazar

ORDER

The petitioner herein is the third party in the suit in O.S.No.82 of 2013. The petition is to condone the delay of 922 days in filing the appeal suit.

2.Heard the learned counsel on either side and perused the records.

3.The suit in O.S.No.82 of 2013 was filed for partition by the daughters/respondents 1and 2 herein against the father and two brothers, who are the respondents 3, 4 and 5 herein respectively.



The suit was decreed. Now, this petition is being filed by the third party with the delay of 922 days, alleging that initially he is an agreement holder and as such an agreement was entered between the father and the two sons namely respondents 3 to 5 herein and he has also filed a suit in O.S.Nos.93 and 94 of 2013 on the file of the Sub Court, Vedasanthur. Pending the suit, the suit in O.S.No.82 of 2013 has been filed by the daughters and the very suit itself is filed only to defeat his right under the agreement. Hence, he wanted to file an appeal and in filing the appeal, there was a delay of 922 days.

4.Admittedly, during the pendency of the suit in O.S.No.82 of 2013, the above suits in O.S.No.93 and 94 of 2013 for the relief of specific performance, have been filed. For the delay of 922 days, medical ground was alleged. On perusing the same, I find that the same does not satisfy to be the sufficient cause. Accordingly, the Civil Miscellaneous Petition stands dismissed. Consequently, the appeal suit, which is in SR stage, is rejected.

Sd/-
Assistant Registrar

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/ /2020
Sub Assistant Registrar

To

The Additional District Judge, Dindigul.

C.M.P(MD) No.8311 of 2019
in
A.S (MD) No.SR 52181 of 2018
16.03.2020

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