



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.01.2020

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI

C.M.P. (MD) No.9730 of 2018

and

C.R.P. (MD) No.SR20221 of 2018

WEB COPY

P.Balasubramanian

... Petitioner / Petitioner

Vs.

N.Sanjeevi Rajan

... Respondent / Respondent

PRAYER in C.M.P. (MD) No.9730 of 2018: Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, to condone the delay of 92 days in filing the Civil Revision Petition against the order in I.A.No.28 of 2017 in C.M.A.No.2 of 2018 on the file of the Sub Court, Srivilliputhur, dated 26.03.2018.

PRAYER in C.R.P. (MD) No.SR20221 of 2018: Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair order and executable order, dated 26.03.2018 in I.A.No.28 of 2017 in C.M.A.No.2 of 2018 on the file of the Sub Court, Srivilliputhur.

For Petitioner : Mr.V.Ramakrishnan

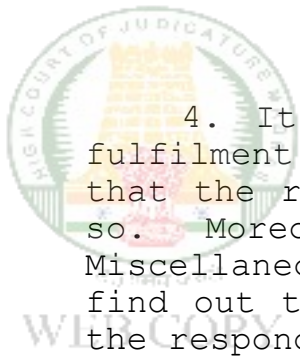
For Respondent : Mr.M.Ashok Kumar

O R D E R

This Civil Miscellaneous Petition has been preferred to condone the delay in filing the Civil Revision Petition against the order in I.A.No.28 of 2017 in C.M.A.No.2 of 2018 on the file of the Sub Court, Srivilliputhur, dated 26.03.2018.

2. On the side of the petitioner, it is stated that the respondent did not comply with the orders of this Court and did not comply the undertaking given before this Court in C.R.P.(MD)No.2875 of 2018 and hence, the petitioner herein has filed the Contempt petition and thereafter, the respondent herein filed a petition in C.R.P. (MD)No.2875 of 2018, to condone the delay in filing the petition and that C.R.P. was disposed of by this Court with liberty to the petitioner herein, to contest his case and hence, this C.M.P. is filed and there was a delay of 92 days in filing the petition and the same has to be condoned.

3. On the side of the respondent, it is stated that Civil Revision Petition in C.R.P.(MD)No.2875 of 2018 was already disposed of and the C.M.A. was already numbered and there is nothing to adjudicate in this petition.



4. It is seen that there is some allegation regarding non-fulfilment of the undertaking given by the respondent. It is stated that the respondent has to remove the pipe-line, but, failed to do so. Moreover, he has filed a Commissioner Petition in the Civil Miscellaneous Appeal. If at all a Commissioner is appointed, he may find out the availability of the pipe-line which may be adverse to the respondent himself.

5. In the above circumstances, when the Civil Miscellaneous Appeal is already numbered, the relief available to the petitioner is to contest the same and if there is any contempt, the petitioner herein can proceed in the Civil Miscellaneous Appeal and there is nothing sufficient enough to adjudicate in this Civil Miscellaneous Petition. Hence, this Civil Miscellaneous Petition is dismissed. However, the Sub Court, Srivilliputhur is hereby directed to dispose of the Civil Miscellaneous Appeal No.2 of 2018 within a period of six months from the date of receipt of a copy of this order.

6. With the above observation, this petition is dismissed. No costs. Consequently, connected C.R.P. (MD) No. SR20221 of 2018 is rejected at the SR stage itself.

Sd/-

Assistant Registrar (CS-II)

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/ /2020

Sub Assistant Registrar (CS)

Ls
To

1. The Subordinate Judge,
Srivilliputhur.

2. The Section Officer, (2 copies)
VR Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. V. Ramakrishnan, Advocate, Sr.No.91
+1cc to Mr. M. Ashok Kumar, Advocate, Sr.No.71

C.M.P. (MD) No.9730 of 2018

and

C.R.P. (MD) No. SR20221 of 2018

02.01.2020

SMA/21/01/2020/2P/5C