



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2020

CORAM

THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (MD)No.2597 of 2017

The President,
Town Indhira Congress,
Town Committee Office,
Sivagiri.

: Appellant/Appellant/Petitioner

.. Vs ..

Pitchaiya (Died)

1.Guruvammal

2.Subbu

3.Meena

4.Jeyaguru

5.Nagarajan

6.Magamayi

7.Balasubramanian

8.Venkatesh

9.Indhira

: Respondents/Respondents/Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the fair and decretal order in I.A.No.205 of 2011 in unnumbered A.S.No.... of 2011 on the file of the Sub Court, Sankarankovil, dated 09.08.2017.

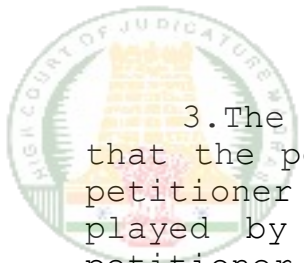
For Petitioner : Mr.T.S.R.Venkataramana

For Respondents : Mr.F.X.Eugene

ORDER

This Civil Revision Petition is directed against the order passed by the learned Subordinate Judge, Sankarankovil, in I.A.No.205 of 2011 in Unnumbered First Appeal filed by the revision petitioner.

2.The revision petitioner is the defendant in the suit in O.S.No.340 of 1988 on the file of the District Munsif Court, Sankarankovil. After an elaborate trial, the suit filed by the respondents/plaintiffs was decreed as prayed for. Aggrieved by the judgment and decree, the revision petitioner, who is the defendant in the suit, preferred an appeal. However, there is a delay of 237 days in preferring such appeal. Hence, the petitioner filed a petition to condone the delay of 237 days in filing the first appeal as against the judgment and decree in O.S.No.340 of 1988. This petition to condone the delay of 237 days in filing the first appeal was dismissed by the lower Court and hence, the above Civil Revision Petition is preferred by the defendant in the suit.



3.The learned Counsel appearing for the petitioner submitted that the petitioner is a victim of lawyers and that therefore, the petitioner should not be punished for the mistake and mischief played by the lawyers. The learned Counsel appearing for the petitioner made some submissions which are beyond the scope of the suit itself. He also submitted that he had acquaintance with the history of the case and he knows them personally. Unfortunately, those facts of which the Counsel has personal knowledge cannot be considered. However, this Court has seen that the delay in filing the first appeal is purely by inadvertence. In such circumstances, this Court is of the view that a fair opportunity should be given to the revision petitioner who is the sole defendant in the suit. While considering the petition for condoning the delay under Section 5 of the Limitation Act, the lower Court failed to consider all the relevant and material facts and circumstances. A perusal of the records indicates that the petitioner had sufficient reasons for the delay. The petitioner is also entitled to a fair opportunity to pursue the appeal and get a judgment on merits. In such circumstances, in case like this, the Court cannot expect reasons supported by foolproof documents. From the statement of facts found in the affidavit and the attending circumstances, this Court has no material to disbelieve the reasons for the delay. Hence, it will be in the interest of justice, to condone the delay. Accordingly, this Civil Revision Petition is allowed and the order passed in I.A.No.205 of 2011 in unnumbered First Appeal of 2011 on the file of Sub Court, Sankarankovil, is set aside. The petition in I.A.No.205 of 2011 stands allowed. No costs.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

SRM

To

- 1.The Sub Judge,
Sankarankovil.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai

+1cc to Mr.T.S.R. Venkat Ramana,Advocate, SR.No.15768/20

C.R.P.(MD)No.2597 of 2017

03.09.2020

KB(18.09.2020) 2P 4C