



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2020

CORAM:

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

C.R.P. (PD) (MD)No.2236 of 2019

and

C.M.P. (MD)No.11585 of 2019

WEB COPY

1.J.Shanmuganathan

2.S.Sembavai

... Petitioners/Respondents/
Defendants

vs.

D.C.Karunanidhi

... Respondent/Petitioner
/Appellant

PRAYER: This Civil Revision Petition is filed under Section 227 of the Constitution of India, to set aside the fair and decreetal order dated 30.09.2019 made in I.A.No.85 of 2018 in an unnumbered A.S.No.Nil of 2018 on the file of the Principal Sub Court, Dindigul and allow the above Civil Revision Petition.

For Petitioners : Mr.J.Lawrance

For Respondent : Mr.A.Hariharan

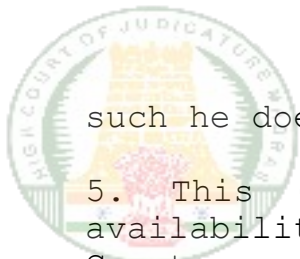
ORDER

The revision petitioner herein is the defendant in O.S.No.238 of 2009 on the file of the Additional District Munsif Court, Dindigul and the respondent in I.A.No.85 of 2018, which the respondent herein has filed for condoning the delay of 333 days in preferring the first appeal.

2. The suit was laid by the respondent herein for declaration of his title and for injunction, which came to be dismissed. He preferred an appeal with a delay of 333 days. To condone the same, he preferred an application in I.A.No.85 of 2018. It was condoned by the first appellate Court on condition that the respondent herein has to pay a cost of Rs.1,000/-. This Court is informed in the course of argument that the cost has been deposited, since the revision petitioner did not receive the same, the appeal has also been numbered as A.S.No.113 of 2019. This order is now under challenge in this revision.

3. Heard the learned counsel on both sides.

4. The learned counsel for the revision petitioner vehemently argued that the plaintiff with no semblance of right and has instituted the suit only with an intention to harass the revision petitioner. He added that post dismissal of the suit, the respondent herein has mischievously executed the gift deed in favour his daughters and as



such he does not have any interest in the suit property.

5. This Court is now in scission of the dispute regarding availability of grounds for condoning the delay of 333 days and this Court carefully perused the impugned order and does not find any irregularity or impropriety or illegality in the said order, though given the inconvenience caused to the respondent, the lower appellate Court could have directed payment of higher costs.

6. This Court therefore, partially interferes with the said order and increases the costs payable to the respondent to Rs.5,000/-, which will be paid in addition to Rs.1,000/- already paid. So far as the merit of the matter is concerned, the revision petitioner is free to canvass those points before the first appellate Court during the final hearing. The respondent will have the right of hearing only upon payment of costs herein directed, which he is required to pay on or before 18.12.2020.

7. This Civil Revision Petition is allowed accordingly. The respondent / appellant in A.S.No.113 of 2019 is required to file a memo dated to the first appellate Court as to the payment of costs by him as directed by this Court. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Ta

To

1.The Principal Sub Court, Dindigul

2.The Section Officer, (2Copies)

V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.J. LAWRANCE, Advocate (SR-23747[F] dated 02/12/2020)

+1 CC to M/s.A.HARI HARAN, Advocate (SR-23823[F] dated 03/12/2020)

C.R.P. (MD)No.2236 of 2019

01.12.2020

SSS(CO)

KB(17.12.2020) 2P 6C

<https://hcservices.ecourts.gov.in/hcservices/>