

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.02.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP (NPD).No. 988 of 2015

Peramatha

... Petitioner

Vs.

1. Lakshmi
2. M.Ammakanu
3. Ponnusamy
4. K. Raja
5. Alamelu

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside against the fair and final order dated 02.12.2014 made in I.A.No. 17 of 2014 in I.A.No. 32 of 2013 in A.S.No. 41 of 2013 on the file of II Additional Sub Court, Salem.

For Petitioner : Mr.D. Sathya

For Respondents : No Appearance (Notice Served)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No. 17 of 2014 in I.A.No. 32 of 2013 in A.S.No. 41 of 2013 dated 02.12.2014 on the file of II Additional Sub Court, Salem, thereby, dismissing the petition to condone the delay of 59 days in filing the restoration petition to restore the restoration petition.

2. The petitioner is the defendant in the suit filed by the respondents herein for declaration and recovery of possession, in respect of the suit properties. The suit was decreed as against the petitioner and aggrieved by the same, the petitioner preferred an appeal suit before the First Appellate Court. After filing the appeal suit, there was some defect in the notice taken by the petitioner in the appeal suit. Therefore, the appeal suit itself was dismissed for default on 08.07.2013. Immediately, the petitioner filed a petition to restore the appeal suit in I.A.No.32 of 2013. The First Appellate Court ordered paper publication in the restoration petition, in which, the petitioner failed to effect the paper publication as ordered by the First Appellate Court. Therefore, the restoration petition was also dismissed for default. The petitioner filed a petition to restore the restoration petition to

restore the appeal suit with a delay of 59 days.

3. On a perusal of the affidavit filed in support of the condone delay petition, it reveals that the petitioner could not contact her counsel to issue paper publication for the reason she fell ill and she had cardiac arrest. Therefore, she could not able to contact her counsel.

4. Considering the above reasons stated by the petitioner herein, this Court is of the view that the petitioner may be given one more opportunity to pursue her appeal. In view of the above, this Civil Revision Petition is allowed and the order passed in I.A.No. 17 of 2014 in I.A.No. 32 of 2013 in A.S.No. 41 of 2013 dated 02.12.2014 is set aside. The petitioner shall take steps to effect paper publication within a period of two weeks from the date of receipt of a copy of this order. From the date of paper publication, the Appellate Court is directed to dispose the appeal within a period of six months from the date of receipt of the copy of this order on merits in accordance with law. No costs.

15.02.2021

Speaking/Non-speaking order

Index : Yes/No

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G.K.ILANTHIRAIYAN,J.

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To

The II Additional Sub Judge, Salem.



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