

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD) No. 1715 of 2018

P. Pushpa

Petitioner

Vs

1. V.Sadasivam (Died)
2. K.P.Kathirvel
3. The South Indian Bank Limited,
Gobichettipalayam Branch,
Rep. by its Branch Manager,
Gobichettipalayam.
4. Indian Overseas Bank,
Kavundapadi Branch,
Rep by its Branch Manager,
Gobichettipalayam.
5. Canara Bank
Gobichettipalayam Branch,
Rep by its Branch Manager
Modachur Road,
Gobichettipalayam
6. The Gobichettipalayam Co-operative
Urban Bank Limited, No.979,
Rep by its Secretary,
Gobichettipalayam.
7. Karur Vysya Bank,
Kavindapadi Branch,
Rep by its Branch Manager,
Kavindapadi.

8. State Bank of India,
Gobichettipalayam Branch,
Rep. by its Branch Manager,
Gobichettipalayam.

9. Shanthakumari

10. P.S.Parthiban

(Respondents 9 & 10 brought on
record as LRs of the deceased 1st
respondent vide order of Court
dated 30.07.2021 made in CMP
No.441 of 2021 in CRP No.1715 of 2018)

.... Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 15.02.2018 made in I.A.No.16 of 2016 in O.S.No.179 of 2011 on the file of the Additional District Court (Fast Track Court No.IV), Bhavani.

For Petitioner	:	Mr.Kaithamalai Kumaran
For R1	:	Died (Steps taken)
For R2, R3, R4, R6 to R8	:	Ex-parte
For R5 & R10	:	Not ready in notice
For R9	:	Mr.M.Guruprasad

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 15.02.2018 made in I.A.No.16 of 2016 in O.S.No.179 of 2011 on the file of the Additional District Court (Fast Track Court No.IV), Bhavani, thereby dismissing the petition to condone the delay in filing the petition to restore the suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed a suit in O.S.No.179 of 2011 for partition. The petitioner was examined as P.W.1 and at that juncture, the petitioner was unable to attend the Court. Therefore, the suit was dismissed for default on 13.08.2012. In fact, immediately within a period of 30 days, she filed a petition to restore the suit. The said petition was returned for certain corrections. Unfortunately, thereafter she fell ill and could not engage a counsel to re-present the same by answering the queries raised by the Court below. After her illness, she instructed her counsel to file a petition to restore the suit. Thus, there was a delay of 1104 days in filing the petition to restore the suit. However, the suit was dismissed for the reason that the petitioner failed to state sufficient cause for the huge delay of 1104 days. It is further stated that already the petitioner filed a petition to restore the suit and the same was returned for some corrections. Thereafter, the petitioner failed to re-present the same.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that she fell ill with Chicken Box and thereafter she continued her treatment. In fact, she also examined herself as P.W.1 in the condone delay petition.

4. Considering the above, this Court is of the opinion that the petitioner may be given one more opportunity, whatever, prejudice caused to the respondents may be compensated with cost. Accordingly, the order dated 15.02.2018 made in I.A.No.16 of 2016 in O.S.No.179 of 2011 on the file of the Additional District Court (Fast Track Court No.IV), Bhavani, is hereby set aside on condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten thousand only) as cost to the respondents herein within a period of two weeks from the date of receipt of a copy of this Order, failing which the order shall stand automatically cancelled without any further reference to this Court and on such payment, the trial Court is directed to restore the suit and dispose of the same within a period six months, thereafter.

5. With the above directions, this Civil Revision Petition stands allowed. Consequently, connected miscellaneous is closed. No costs.

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Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

To

1. The Additional District Court
(Fast Track Court No.IV), Bhavani..

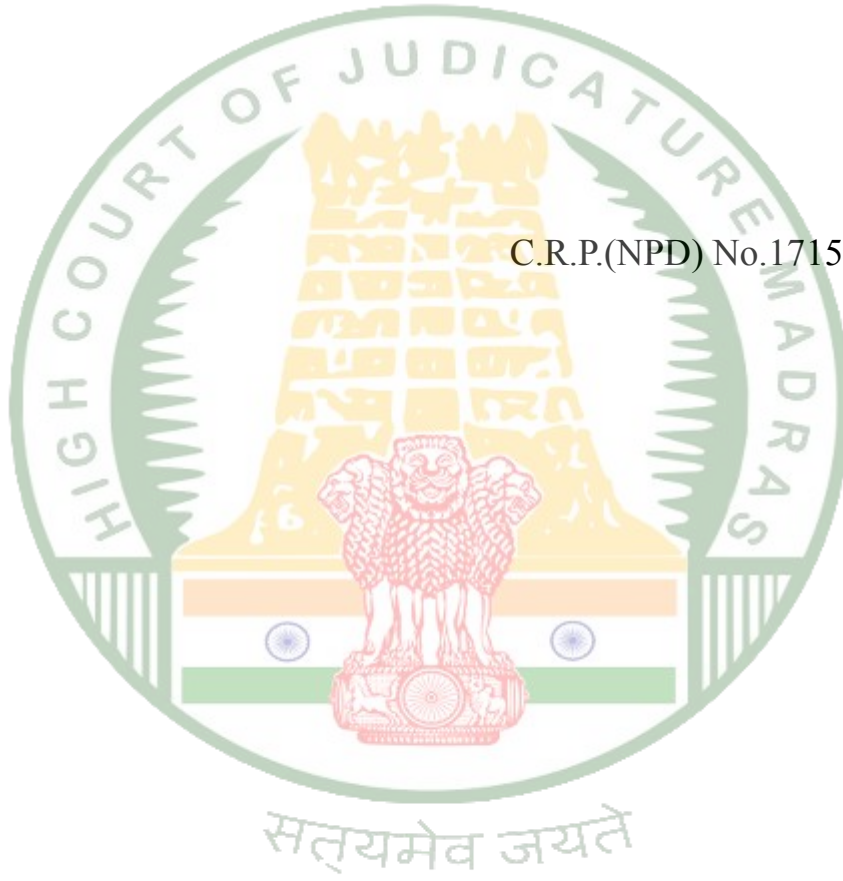
2.The Section Officer,
V.R.Section, High Court, Madras.



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G.K.ILANTHIRAIYAN.J,

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