

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2021

CORAM

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

CRP.NPD.No. 1666 of 2016

and

CMP.No.8948 of 2016

S.Venkatachalam

... Petitioner

Vs.

1.Ponjayee

2. T.Balasubramanian

3. The District Collector,
Namakkal Collectorate,
Namakkal District.

4. The Revenue Divisional Officer,
Trichengode, Trichengode Taluk,
Namakkal District.

5. The Tahsildar,
Taluk Office, Trichengode,
Namakkal District.

6. The Village Administrative Officer,
Pallipalayam Agraharam Village,
Pallipalayam Post,
Trichengode Taluk,
Namakkal District.

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the fair and decretal order dated 08.01.2016 made in I.A.No.76 of 2014 in unnumbered A.S.No. of 2014 on the file of the Subordinate Judge, Tiruchengode.

For Petitioner : Mr.R.Marudhachalamurthy

For Respondents : Mr.P.Valliappan (for R1 & R2)

Mr.S.Jaganathan (for R3 to R6)
Government Advocate

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in I.A.No.76 of 2014 in unnumbered A.S.No. of 2014 dated 08.01.2016 on the file of the learned Subordinate Judge, Tiruchengode, thereby, allowing the petition to condone the delay of 27 days in filing the appeal suit with the costs of Rs.500/-.

2. The petitioner is the plaintiff. He filed a suit for injunction as against the respondents. In the said suit, the respondents filed a counter claim declaring the said suit property belonged to them. The said suit filed by the petitioner was dismissed and the counter claim filed by the

respondent was allowed. Aggrieved by the same, the petitioner preferred two appeal suits. The appeal suits filed as against the suit claim filed by the petitioner and counter claim filed by the defendant and one of the appeal suit was numbered and it is pending for adjudication. The petitioner preferred appeal suit as against the decree passed in the counter claim with the delay of 27 days in the filing the appeal suit. The said condone delay petition was allowed on condition that the petitioner shall pay a sum of Rs.500/- as costs to the respondent herein on or before 18.01.2016 by order dated 08.01.2016 and the appeal suit itself was rejected for the reason of non complying with the condition imposed by the first Appellate Court.

3. The learned counsel for the respondents submitted that the appeal suit arising out of the suit filed by the petitioner is now pending for adjudication on the file of the Subordinate Judge, Tiruchengode. When that being so, the petitioner may be given one more opportunity to prefer an appeal suit as against the decree passed in the counter claim of the respondent herein with costs.

4. Accordingly, the order passed in I.A.No.76 of 2014 in unnumbered A.S.No. of 2014 is set aside and this Civil Revision petition is allowed on condition that the petitioner shall pay a sum of Rs.5,000/- as costs to the respondents 1 and 2 within a period two weeks from the date of receipt of a copy of this order. Thereafter, the first Appellate Court is directed to number the appeal suit and dispose of both the appeal suits arising out of the original suit claim and also counter claim in O.S.No.280 of 2010, within a period of six months from the date of numbering the said appeal. Consequently, the connected Miscellaneous Petition is closed.

25.01.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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To

1. The Subordinate Judge, Tiruchengode.

2. The District Collector,
Namakkal Collectorate,
Namakkal District.

3. The Revenue Divisional Officer,

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Trichengode, Trichengode Taluk,
Namakkal District.

G.K.ILANTHIRAIYAN,J.

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4. The Tahsildar,
Taluk Office, Trichengode,
Namakkal District.
5. The Village Administrative Officer,
Pallipalayam Agraharam Village,
Pallipalayam Post,
Trichengode Taluk,
Namakkal District.



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