

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2021

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

CRP.NPD.Nos.3133 and 3138 of 2016

and

CMP.Nos.15913 and 15919 of 2016

CRP.NPD.No.3133 of 2016

S.Thirumoorthy ... Petitioner

Vs.

1. Sankarappan
2. Ramesh
3. Velusamy @ Velumani ... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decretal order dated 04.08.2016 made in I.A.No.48 of 2016 in A.S.No.unnumbered of 2016 in C.F.R.No.2022 of 2016 on the file of the Sub Court, Sathyamangalam by allowing this Civil Revision Petition.

For Petitioner

: Mr.D.R.Arunkumar

For Respondents

: Mr.N.Manokaran (for R1)

: Notice Served (for R2 & R3)

CRP.NPD.No.3138 of 2016

S.Thirumoorthy

... Petitioner

Vs.

Sankarappan

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the fair and decretal order dated 04.08.2016 made in I.A.No.46 of 2016 in A.S.No.unnumbered of 2016 in C.F.R.No.2019 of 2016 on the file of the Sub Court, Sathyamangalam by allowing this Civil Revision Petition.

For Petitioner : Mr.D.R.Arunkumar

For Respondent : Mr.N.Manokaran

COMMON ORDER

These Civil Revision Petitions are directed as against the fair and decretal orders passed in I.A.Nos. 46 and 48 of 2016 in A.S.No.unnumbered of 2016 in C.F.R.Nos.2019 and 2022 of 2016 respectively dated 04.08.2016 on the file of the Sub Court, Sathyamangalam.

2. The petitioner is the 6th defendant in O.S.No.79 of 2011 and he is also the defendant in O.S.No.161 of 2011 and the first respondent in C.R.P

(NPD) No.3133 of 2016 is the plaintiff in O.S.No.79 of 2011 and he, who is the respondent in C.R.P (NPD) No.3138 of 2016 is the plaintiff in O.S.No.161 of 2011. He filed the suit for declaration and injunction in respect of cart track by way of two suits. Both the suits were decreed in favour of the plaintiff by the judgment and decree dated 07.03.2014. Aggrieved by the same, the petitioner preferred appeals suit with a delay of 694 days.

3. On a perusal of the affidavits filed in support of the condone delay petitions in filing the appeal suits, the petitioner stated that he went to Karnataka for his livelihood, due to drought he could not able to do agriculture in his land. It is unbelievable that for the past two years there was drought in Erode District viz., Sakarapalayam Village, Sathyamangalam Taluk. Though there are some areas suffering from heavy drought, not for continuesly two years. Further, the petitioner also failed to state where, in the State of Karnataka, he went about for his avocation. Therefore, there is no sufficient cause as stated by the petitioner to condone the delay of 694 of days.

4. The learned counsel for the petitioner relied upon the judgment

reported in 2019 (6) SCC 387 (***Bhivchandra Shankar More -vs- Balu Gangaram More***), wherein the Hon'ble Supreme Court of India held as follows:-

“15. It is a fairly well-settled law that “sufficient cause” should be given liberal construction so as to advance sustainable justice when there is no inaction, no negligence nor want of bona fides could be imputable to the appellant. After referring to various judgments, in B. Madhuri [B. Madhuri Goud v. B. Damodar Reddy, (2012) 12 SCC 693 : (2013) 2 SCC (Civ) 546] , this Court held as under: (SCC p. 696, para 6)

“6. The expression “sufficient cause” used in Section 5 of the Limitation Act, 1963 and other statutes is elastic enough to enable the courts to apply the law in a meaningful manner which serves the ends of justice. No hard-and-fast rule has been or can be laid down for deciding the applications for condonation of delay but over the years courts have repeatedly observed that a liberal approach needs to be adopted in such matters so that substantive rights of the parties are not defeated only on the ground of delay.”

16. Observing that the rules of limitation are not meant to destroy the rights of the parties, in N. Balakrishnan v. M. Krishnamurthy [N. Balakrishnan v. M.

Krishnamurthy, (1998) 7 SCC 123] , this Court held as under: (SCC pp. 127-28, para 11)

“11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. The law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and wasted time would never revisit. During the efflux of time, newer causes would sprout up necessitating newer persons to seek legal remedy by approaching the courts. So a lifespan must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. The law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time.”

5. The learned counsel for the petitioner further relied upon the judgment reported in 2019 (6) CTC 344 (**Robin Thapa -vs- Rohit Dora**),

wherein the Hon'ble Supreme Court of India held as follows:-

“8. Ordinarily, a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.

6. The Hon'ble Supreme Court of India held that the litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default either of the plaintiff or the defendant. In the same judgment it is also held that the reason must be reasonable and correct.

7. In the case on hand, the petitioner stated the reason that he went to Karnataka as he could not able to do agriculture due to drought in his own land. Whereas, the respondent/plaintiff filed his counter stating that his land is very fertile land and he is cultivating sugar cane and other vegetable crops and he was very much available in the locality. Therefore, the above judgments cited by the learned counsel for the petitioner are not helpful to

the case on hand.

8. In view of the above discussion, this Court finds no infirmity or illegality in the orders passed by the Court below. Accordingly, these Civil Revision Petitions are dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

10.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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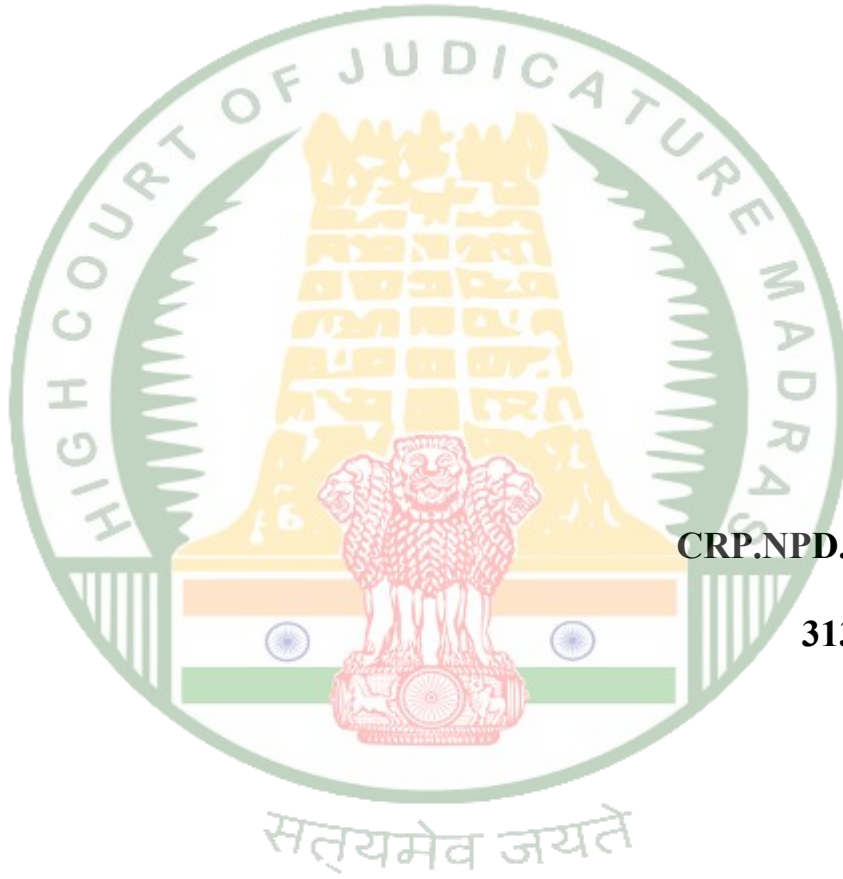
The Sub Court, Sathyamangalam.



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G.K.ILANTHIRAIYAN,J.

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