

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.10.2021

CORAM :

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

C.R.P. (PD) No.2149 of 2021

P.Thangavel

... Petitioner

Vs

1. R.Rengaraj

2. R.Pandu
Respondents

...

PRAYER : Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair order and decreetal order in I.A. No. 63 of 2017 in A.S. S.R. No. 4025 of 2017 dated 11.01.2021 on the file of the Sub Court at Perambalur and allow this Civil Revision Petition.

For Petitioner : Mr. L.P.Balajiram

ORDER

This Petition is filed challenging the order passed in I.A.No.63 of 2017 in A.S. S.R. No.4025 of 2017 by the Learned Sub Judge, Perambalur on 11.01.2021.

2.The Learned Counsel for the Petitioner submitted that the Petitioner filed Suit against the Respondents for the relief of permanent injunction restraining the Respondents from interfering with the possession and enjoyment of the Suit property by the Petitioner. The Suit was dismissed on 20.04.2021. The Petitioner should have filed the Appeal in time. Since, there was a delay of 446 days in filing the Appeal, I.A.No.108 of 2006 was filed for condoning the delay in filing the Appeal. I.A.No.108 of 2006 was pending for serving notice on the Respondents. Since notice was not taken, I.A.No.108 of 2006 was dismissed on 22.01.2008.

3.Then, the Petitioner filed I.A.No.63 of 2017 for restoring the I.A.No.108 of 2006 with a delay of 2536 days. The Petitioner could not file I.A.No.63 of 2017 in time for the reason that the Petitioner was suffering from Jaundice and he was taking treatment in and out station and therefore, he could not meet his Advocate and know about the status of the case and file the Petition. Hence, there was a delay of 2536 days in filing the I.A.No.63 of 2017 under Section 5 of the Limitation Act to restore the I.A.No.108 of 2006.

4. Without considering the Petitioner's reasons given for the delay in filing the Petition, the Learned Sub Judge, Perambalur dismissed the Petition. Against the said order, this Revision is preferred with the prayer to set aside the order of the Learned Sub Judge, Perambalur and for allowing the condone delay Petition.

5. Considered the submissions of the Learned Counsel for the Petitioner and perused the records.

6. It is seen from the order of the Learned Sub Judge, Perambalur that Petitioner filed the Appeal with a delay of 446 days. He filed I.A.No.108 of 2006 for condoning the said delay and allowed it to be dismissed for default for not taking steps to serve notice on the Respondents on 22.01.2008. Thereafter, I.A.No.63 of 2017 was filed with a delay of 2536 days for condoning the delay in filing the restoration of I.A.No.108 of 2006. The reason for the delay, according to the Petitioner is that the Petitioner was suffering from Jaundice, he was taking treatment in out station and therefore, he cannot meet his Counsel and get to know about the case.

7.It appears that the Petitioner has not produced any materials to show that he was suffering from Jaundice for more than seven years and therefore, he was not aware of the case and cannot meet his Advocate to give instructions. Already the Appeal was filed with delay. The delay condonation Application was allowed to be dismissed for default. The restoration Petition was not filed in time. There is 2536 days delay in filing restoration Petition. The Petitioner has not produced any material to show that he was suffering from Jaundice.

8.Therefore, this Court is of the considered view that the Learned Sub Judge, Perambalur has rightly dismissed the Petition. This Court finds no reason to interfere with the order of the Learned Sub Judge, Perambalur and the order of the Learned Sub Judge, Perambalur is confirmed.

9.Resultantly, this Civil Revision Petition is dismissed. No costs.

05.10.20

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Index: Yes/No

Internet: Yes/No

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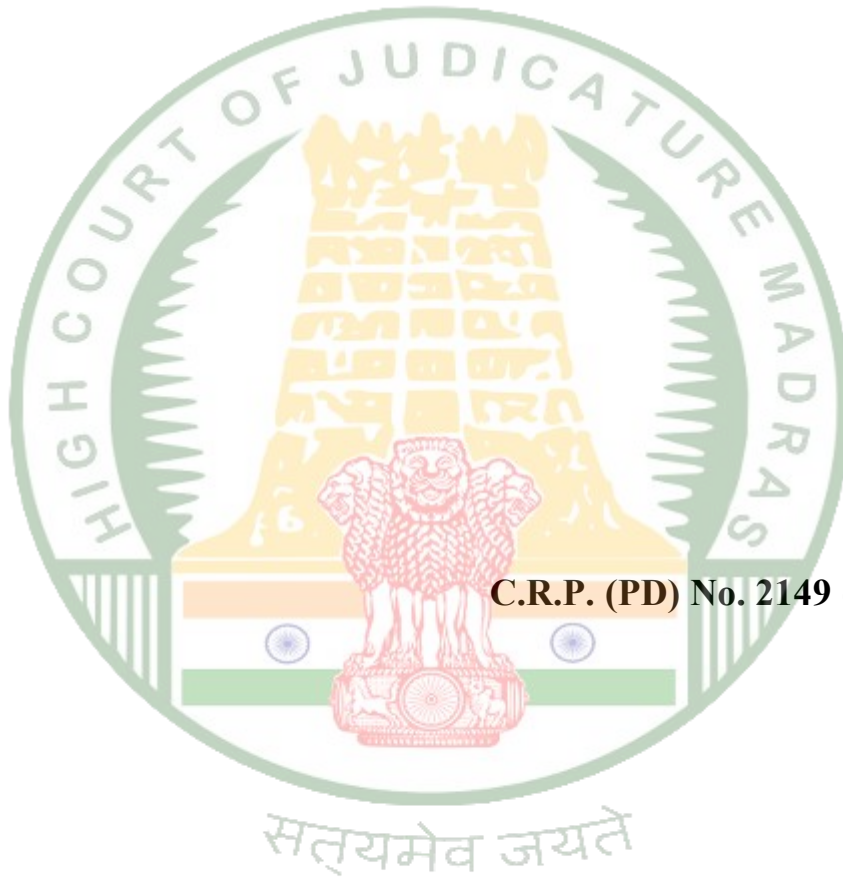
The Sub Court,
Perambalur.



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G.CHANDRASEKHARAN, J.

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