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CRP (PD) No. 2880 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **23.12.2021**

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No. 2880 of 2021

and

CMP No. 20799 of 2021

Balakrishnan

... Petitioner/Petitioner/Plaintiff

Vs

Munusamy (Died)

1. Rajamanickam
2. Subramani
3. Annamalai
4. Sekar
5. Elumalai
6. Madhurambal

... Respondents/Respondents/Defendants

PRAYER: Civil Revision Petition filed under section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 08.09.2021 made in I.A.No. 59 of 2020 in Un-numbered O.S., of 2020 on the file of District Munsif Cum Judicial Magistrate Court, Vikravandi, Villupuram District.



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For Petitioner : Mr. C.Prabakaran

ORDER

The order challenged in this Civil Revision Petition is one dismissing the application filed by the petitioner in seeking condonation of delay of 2890 days in representing the plaint which was returned to be presented before the proper Court.

2. The petitioner would claim that he had gone to Mumbai to work in a Hotel because of his poverty and he had four sisters to be married. In view of the financial and social situation, he did not ever file the suit. Only, now when the defendants attempted to interfere with his possession, he had met his counsel and sought to represent the plaint. The Trial Court had dismissed the application on the conclusion that the plaintiff has not explained the delay properly. Nodoubt, the delay is only in representation. The requirements of Section 5 of the Limitation Act may not be applicable, however, the petitioner, who seek indulgence of the Court must show some cause for the delay.



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3. A perusal of the reasons assigned by the petitioner would demonstrate that the petitioner had been visiting the native place very often atleast for the marriages of his sisters and he did not make any attempt to represent the suit. More over the suit is only for permanent injunction for dismissal or rejection of the suit does not bar a fresh suit on a different cause of action.

4. Hence, I do not see any reason to interfere with the order of the Trial Court. Hence, this Civil Revision Petition fails and it is accordingly dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.12.2021

vsg

Index: Yes/No

Speaking order / Non speaking order



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R.SUBRAMANIAN, J.

Vsg

To:

1. District Munsif Cum Judicial Magistrate Court,
Vikravandi, Villupuram District.
2. The Section Officer,
VR Section,
Madras High Court, Chennai.

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