

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.04.2021

CORAM

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

CRP.NPD.No.304 of 2017

K.K.Sengodan

..Petitioner

Vs.

1.Rangammal  
2.R.Mathiahah  
3.Muthulakshmi

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the order dated 01.09.2016 passed in IA.No.119 of 2015 in IA.No.113 of 2013 in OS.No.227 of 2010 on the file of the Subordinate Judge, Sathyamangalam and direct the learned Judge to restore the suit and dispose the suit on merits.

For Petitioner

: M/s.R.Poornima  
for Mr.A.Thiyagarajan

For Respondents : Mr.N.Manokaran

**ORDER**

This civil revision petition is filed against the order dated 01.09.2016 passed in IA.No.119 of 2015 in IA.No.113 of 2013 in OS.No.227 of 2010 on the file of the Subordinate Judge, Sathyamangalam, thereby dismissing the petition to condone the delay of 57 days in filing the petition to restore the suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for bare injunction in respect of the suit property. When the suit was posted for trial, the petitioner was absent and as such the suit was dismissed for default on 03.12.2012. Thereafter, the sole defendant also died on 13.10.2012. Even then, without impleading the legal heirs of the deceased defendant, the petitioner filed petition to restore the suit with delay of 57 days. Therefore, the court below dismissed the petition to condone the delay of 57 days in filing the petition to restore the suit.

3. The learned counsel for the petitioner would submit that the legal heirs of the deceased defendant are residing at some other place and as such he could not able to get all details and as such the petitioner could not be able to file petition in time.

4. Considering the above submission, the petitioner may be given one more opportunity to pursue his suit in accordance with law. Accordingly, this civil revision petition is allowed and the order dated 01.09.2016 passed in IA.No.119 of 2015 in IA.No.113 of 2013 in OS.No.227 of 2010 on the file of the Subordinate Judge, Sathyamangalam is set aside. After restoring the suit, the petitioner is directed to file petition to implead the legal heirs of the deceased defendant within a period of two weeks from the date of restoration of the suit. Thereafter, the trial court is directed to dispose of the suit within a period of six months. No order as to costs.

01.04.2021

Speaking/Non-speaking order  
Index : Yes/No  
Internet : Yes/No  
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**G.K.ILANTHIRAIYAN,J.**

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To

The Subordinate Judge,  
Sathyamangalam



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