

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2021

C O R A M

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P(NPD)No.839 of 2017

and

C.M.P.No.4126 of 2017

Natarajan

... Petitioner

Vs.

1.Padmavathi Ammal

2.Munusamy

3.Babu

4.Sivakami

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 Code of Civil Procedure, to set aside the fair and decretal order dated 02.09.2016 in I.A.No.8 of 2016 in A.S.No.Nil/2016 passed by the learned Subordinate Judge, Ranipet, Vellore District.

For Petitioner

: Mr.M.Ravi

For Respondents

: Mr.P.Mani [for R1]

Given up [for R2 to R4]

ORDER

The present revision petition is filed against the fair and decretal order dated 02.09.2016 passed in I.A.No.8 of 2016 in A.S.No.Nil/2016 on the file of the learned Subordinate Judge, Ranipet, Vellore District, thereby allowing the petition to condone the delay in filing the appeal suit.

2. The petitioner is the 2nd defendant in the suit filed by the 2nd respondent herein for partition. The suit was dismissed by the judgment and decree dated 24.03.2014. Aggrieved by the same, the 1st respondent preferred an appeal suit with a delay of 559 days.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that the 1st respondent engaged the counsel to file an appeal suit as against the judgment and decree. Thereafter, she verified with her counsel and came to an understanding that no appeal was preferred. Thereafter, she received the bundle and fell sick. Therefore, she could not file the appeal suit in time.

4. The reasons stated in the affidavit were satisfactory and the Court below rightly allowed the petition with a cost of Rs.500/-. Thereafter, the cost was duly paid and appeal suit was also numbered as A.S.No.21 of 2015 and it is pending. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

5. Accordingly, the Civil Revision Petition is dismissed. However, the cost Rs.500/- is enhanced to Rs.2,500/-. The remaining amount of Rs.2,000/- shall be paid by the 1st respondent to the petitioner herein within a period of two (2) weeks from the date of receipt of a copy of this order. The Appellate Court is directed to dispose of the appeal suit in A.S.No.21 of 2015 within a period of six (6) months from the date of receipt of a copy of this order. No order as to cost. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

G.K.ILANTHIRAIYAN, J.

bri

To

The Subordinate Judge, Ranipet,
Vellore District.



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