



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2021
CORAM

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)No.365 of 2020

Santhana Marimuthu

... Petitioner /
Petitioner/Appellant

Vs.

Baskaran

.... Respondent/Respondent/
Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and decreetal order dated 09.09.2019, passed in I.A.No.262 of 2018 in unnumbered A.S.No. of 2018 on the file of the Principal Subordinate Court, Madurai.

For Petitioner : Mr.T.R.Subramanian
For Respondent : Mr. M.Venkatesh

O R D E R

This Civil Revision Petition is filed to set aside the fair and decreetal order dated 09.09.2019, passed in I.A.No.262 of 2018 in unnumbered A.S.No. of 2018 on the file of the Principal Subordinate Court, Madurai.

2. The revision petitioner is the appellant and the respondent herein is the defendant in the suit in O.S.No.127 of 2011.

3. Learned counsel for the petitioner would submit that the suit in O.S.No.127 of 2011 has been filed for an injunction not to construct the septic tank and the said suit was dismissed on 09.02.2018, against which, the revision petitioner had preferred unnumbered appeal along with the application under Section 41 Rule 3A of C.P.C., in I.A.No.262 of 2018 to condone the delay of 181 days delay in filing the appeal and the same was dismissed by the Court below. Aggrieved over the same, the present Civil Revision Petition has been filed.

4. Learned counsel for the respondent would contend that as per Article 116(b) of Limitation Act, appeal has to be filed within 30 days from the date of decree and also the revision petitioner has not stated any reason for the delay of 181 days in filing the appeal and would state that the present revision



5. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

6. Perusal of record shows that the delay petition has been filed without assigning any proper reason to condone the delay. The petitioner has no case even on merits. Admittedly the suit has been filed for an injunction restraining the respondent not to construct the septic tank. The learned Judge finding that the suit has been filed to restrain the respondent from constructing the septic tank, whereas, in 2003 itself the septic tank has been constructed which has been admitted by the revision petitioner and therefore, the prayer sought for in the suit cannot be granted even by the appellate Court and the same would be a futile exercise.

7. Therefore, on merits also there is no case to the petitioner and therefore, I am not inclined to interfere with the order passed by the learned Judge. Accordingly, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Judge, Principal Subordinate Court,
Madurai.

2.The Record Keeper-2 copies
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1 CC to Mr.T.R.SUBRAMANIAN, Advocate (SR-6497[F] dated 22/02/2021)

+1 CC to Mr.M.VENKATESAN, Advocate (SR-6556[F] dated 22/02/2021)

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