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CMP.No.1422 of 2019
in CRP.Sr.No.4583 of 2019

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N.SESHASAYEE.J.,

The suit is laid for partition and it came to be dismissed for default. To restore the same, an Application under Order 9 Rule 9 CPC was filed along with an Application in I.A.No.985 of 2013 for condoning the delay of 337 days in filing the restoration Application. This was allowed by the trial Court on payment of cost of Rs.1,000/-. However, the cost was omitted to be paid and hence, I.A.No.985 of 2013 came to be dismissed. This Civil Miscellaneous Petition is now filed for condoning the delay of 969 days in preferring a Civil Revision Petition against an order in I.A.No.985 of 2013.

2.The learned counsel for the revision petitioner/plaintiff submitted that the petitioner/plaintiff is in his 80's and is afflicted by age related illness and hence, there was a delay in filing a CRP. He also explained the cause of action and the nature of defense taken by the respondent to project that he has a case on merit.



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3.Heard, the learned counsel for the respondent who, opposed the present Civil Miscellaneous Petition strongly and contended that there is no cause of action in the very suit and took this Court to certain aspects of the written statement.

4.Without getting into the merit of the dispute between the parties, this Court considers it appropriate to allow the present Civil Miscellaneous Petition on payment of cost of Rs.3,000/- (Rupees Three Thousand only) payable to the respondent or her counsel within a period of one week from today. Upon payment of such cost and filing of necessary memo, the Registry may take up the CRP for scrutiny.

5.This Civil Miscellaneous Petition is accordingly allowed.

16.03.2022

Tsg

Note: Issue order copy on 16.03.2022

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