



WEB COPY



C.R.P.(PD) No.2492 of 2009

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

C O R A M:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.(NPD) No.2492 of 2009

and M.P.No.2 of 2010

Shahul Hamid

... Petitioner

Vs.

1. Kannammal (Died)
2. Rukmani
3. S.Saravanan
4. S.Panjalingam
5. S.Subathra
6. Rajeswari
7. Santha
8. A.Karunakaran
9. Amsaveni
10. Vathsala
11. Minor Ragavi D/o Late Anandhan
12. Minor Parvathi D/o Late Anandhan
13. Ranjitham

... Respondents

- *RR 2 to 13 brought on record as LRs of the deceased sole respondent vide court order dated 22.03.2022 made in M.P.No.1 of 2010*

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure praying to set aside the Fair and Decretal order of the learned Additional District Judge (Fast Track Court No.2), Coimbatore dated 26.12.2007 in I.A.No.432 of 2006 in I.A.No.744 of 2005 in O.S.No.824 of 2004 and to dismiss the said I.A.



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For Petitioner : Mr.T.M.Hariharan
For Respondents : M/s.S.Deepika for R6,
R9 and R13.
R2 to R8 and R10 left

ORDER

The above Civil Revision Petition is filed against the order dated 26.12.2007 passed in I.A.No.432 of 2006, for condoning the delay of 35 days in filing the restoration petition in I.A.No.744 of 2005 in O.S.No.824 of 2004, which was dismissed for non-prosecution on 31.03.2006.

2. Heard the learned counsel appearing on either sides and perused the materials available before this Court.

3. Perusal of records would go to show that the present civil revision petition has been filed in the year 2008 and the same has been kept pending unnumbered and came to be numbered only in the year 2009. Today, the matter has been listed for final hearing before me. It is very unfortunate to note that the suit was filed as early as in the year 2004. Since the respondent remained ex parte, the suit came to be decreed ex parte and I.A.No.744 of



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2005 was filed to condone the delay in seeking to set aside the ex parte decree, but the same came to be dismissed for non-prosecution on 31.03.2006. I.A.No.432 of 2006 was filed to condone the delay of 35 days incurred in filing the restoration petition in I.A.No.744 of 2005 and the learned Judge had allowed the same, subject to payment of costs of Rs.1,000/- as costs. Aggrieved against the said order, the petitioner/respondent has preferred the present revision.

4. It is very clear that the petitioner/ respondent's intention is to prolong the proceedings and it is a clear abuse of process of the Court. Hence, with regard to the manner in which the matter has been prolonged by the petitioner/ respondent, this Court directs the respondent/petitioner to pay costs of Rs.5,000/- along with the costs already ordered by the learned Judge in I.A.No.432 of 2006, dated 26.12.2007, within a period of one week from the date of receipt of a copy of this order, failing which I.A. to condone the delay for restoration shall be dismissed automatically, without further reference to the Court.

5. If the petitioner pays the costs within a period of one week from the date of receipt of a copy of this order, then the suit in O.S.No.824 of 2004



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shall be restored to file and the learned Additional District Judge (Fast Track Court No.2), Coimbatore shall dispose of the suit within a period of six months thereafter.

6. With the above directions, this Civil Revision Petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

22.03.2022
(2/2)

msv/sts

To:
The Additional District Judge
(Fast Track Court No.2), Coimbatore.

Order made in
C.R.P.(PD) No.2492 of 2009