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C.R.P.No.331 of 2006

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.02.2022

CORAM:

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P.No.331 of 2006
and C.M.P.No.2561 of 2006

Chandra

.. Petitioner

Versus

- 1) Palaniammal
- 2) Perumal Gounder (deceased)
- 3) Mariammal
- 4) Govindasamy
- 5) P.Sivan
- 6) P.Balan
- 7) P.Udayakumar
- 8) P.Madhiazagan (died)
- 9) Murugammal
- 10) Saroja

.. Respondents

** RR 3 to 10 brought on record as legal heirs of the deceased R2 vide order of Court dated 25.10.2018 made in C.M.P.No.3180/2007.*

** R8 died.*

** R1 legal heir of the deceased R8, as per the memo dated 25.09.2018, vide Court order dated 25.10.2018 made in C.M.P.No.3180 of 2007.*

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 27.06.2005 made in I.A.No.76 of 2005 in O.S.No.268 of 2000 on the file of the District Munsif Court-Cum-Judicial Magistrate, Pochampalli.

For Petitioner : M/s.G.Ethirajulu



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ORDER

This Civil Revision Petition is filed, challenging the order dated 27.06.2005 made in I.A.No.76 of 2005 in O.S.No.268 of 2000 on the file of the District Munsif Court-Cum-Judicial Magistrate, Pochampalli.

2. Suit in O.S.No.268 of 2000 was filed for declaration and permanent injunction, restraining the defendants and his men from interfering with the peaceful possession of the plaintiff /petitioner herein. The said suit was dismissed for default on 09.11.2001 as there was no appearance on behalf of the plaintiff. Thereafter, the plaintiff filed I.A.No.76 of 2005 under Section 5 of the Limitation Act and Section 151 of the Civil Procedure Code on 10.03.2003 to condone the delay of 445 days in filing the restoration petition in the above suit. The learned Judge dismissed the said petition by order dated 27.06.2005. Aggrieved against the order of dismissal, the petitioner/plaintiff has preferred the present revision.

3. According to the learned counsel for the petitioner, due to ill health, the petitioner had to undergo surgery. Therefore, the petitioner got admitted as inpatient and was taking treatment for a period of three months at Bangalore and this resulted in the delay of 445 days, which is neither willful nor wanton. But



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the Court below, without considering the same dismissed the petition for condonation of delay vide order dated 27.06.2005, against which the present revision has been filed.

4. The learned Judge has dismissed the application for condoning the delay holding that the petitioner failed to produce material evidence to substantiate the reasons cited for the delay in filing the restoration petition. This Civil Revision Petition has been filed in the year 2006 and till date, the petitioner has not pursued the above revision and not taken steps to serve notice on the respondents. Therefore, no useful purpose will be served in keeping the above Civil Revision petition pending on the file of this Court. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.02.2022

Index : Yes / No

Internet : Yes

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J.NISHA BANU, J.,

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To:

- 1.The District Munsif Court-Cum-Judicial Magistrate,
Pochampalli.
- 2.The Section Officer, V.R.Section, High Court, Madras.

Order made in

C.R.P.No.331 of 2006

Dated:

28.02.2022