



WEB COPY



CRP No.2472 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P. No.2472 of 2016

Meenatchi

.... Petitioner

Vs

1. Maheswari
2. Karthikeyan
3. Vedamoorthy
4. Murugadass
5. Mohamed Ismail
6. L.Mohan Gandhi

.... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the fair order and decretal order dated 13.09.2014 passed in I.A.No.131 of 2014 in O.S.No.139 of 2008 on the file of the learned Sub-Judge, Nagapattinam and allow this Civil Revision Petition.

For Petitioner	: Mr.T.A.Shagul Hameed
For R1& R2	: Mr.S.Balasubramanian
For R3 & R5	: No appearance
For R4	: Mr.S.Palanisamy



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ORDER

This Civil Revision Petition has been filed to set aside the order dated 13.09.2014 passed in I.A.No.131 of 2014 in O.S.No.139 of 2008 on the file of the Sub-Judge, Nagapattinam, thereby dismissing the petition filed to condone the delay of 204 days in filing the petition to restore the suit.

2. The petitioner is the plaintiff. She filed a suit for partition. When the suit was ripe for trial, the petitioner was absent before the Trial Court and as such, the suit was dismissed for default. In order to restore the suit, the petitioner filed a petition to condone the delay of 204 days in filing the petition to restore the suit.

3. The learned counsel for the petitioner would submit that she was not able to contact her counsel. Therefore, there was a delay of 204 days in filing the petition to restore the suit. However, the Court below dismissed the application on the ground that the petitioner failed to explain the delay in filing the petition to restore the suit. Therefore, the petitioner may be given one more opportunity to proceed with her suit.



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4. In the counter filed by the respondents, it is stated that the reason given by the petitioner is a false statement and each and every day's delay had not been explained.

5. In view of the above, the order dated 13.09.2014 passed in I.A.No.131 of 2014 in O.S.No.139 of 2008 on the file of the Sub Judge, Nagapattinam, is hereby set aside on condition that the petitioner shall pay a sum of Rs.5,000/- to the fourth respondent within a period of two weeks from the date of receipt of a copy of this order. The Trial Court is directed to restore the suit to its file and proceed with the trial, after restoring the suit. Thereafter, the Trial Court is directed to dispose of the suit within a period of six months from the date of restoration of the suit.

6. In the result, this Civil Revision Petition stands allowed. No costs.

08.12.2022

Index : Yes/No

Internet : Yes/No

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To

The Sub Judge, Nagapattinam.



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G.K.ILANTHIRAIYAN, J.

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