



C.R.P. (NPD) No. 1753 of 2022

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2022

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

C.R.P. (NPD) No. 1753 of 2022

and

C.M.P.No. 8823 of 2022

**Tmt. B.Anupama,
W/o. B. Chakravarthy Rajesh**

... Petitioner

Versus

**Mr.Y.Venkata Srinath,
S/o. Late Mohana Krishna**

... Respondent

Prayer:- Civil Revision Petition has been filed under Art. 227 of Constitution of India, praying to set aside the order of the Hon'ble Subordinate Judge, Alandur passed in I.A.No.40 of 2019 in A.S.SR.No.1899 of 2019, dated 01.04.2022 and allow the above Civil Revision Petition.



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For Petitioner : Mr.D.Manoharan for
Mr.M.Murali

For Respondent : Party in person

ORDER

This Civil Revision Petition has been preferred challenging the order of learned Sub-Judge, Alandur dated 01.04.2022 in I.A.No. 40 of 2019 in A.S.SR.No. 1899 of 2019.

2. The Revision Petitioner is the Appellant. She has filed a suit in O.S. No. 705 of 2013 seeking for certain reliefs against the respondent and the said suit was rejected as not maintainable by an order dated 26.10.2016 in I.A.No. 83 of 2016 in O.S.No.705 of 2013. Now, the Revision Petitioner intends to prefer an appeal challenging the said order of rejection. Since there arose a delay of 446 days in preferring the appeal, the Interlocutory Application in I.A.No. 40 of 2021 has been filed seeking to condone the delay and the same was dismissed. Aggrieved over that, the Revision Petitioner has filed the present Civil Revision Petition.



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3. The learned counsel appearing for Revision Petitioner submitted that the delay was not intentional and the delay was caused due to repeated attempts made to amicably settle the dispute between the parties.

4. The respondent, who appeared in person submitted that the actual delay of days is 770 days and not 446 days, further, there is no attempt made on the part of the Revision Petitioner to settle the issues amicably and there was no negotiation held between the parties as stated by her, the petition filed by the Revision Petitioner is vexatious and she had chosen to prefer an appeal only to harass the respondent and hence, the order of learned Trial Judge does not require any interference.

5. It is pertinent to note that the Revision Petitioner and the respondent are siblings and the suit was originally filed by the Revision Petitioner seeking to declare that the gift settlement deed dated 10.12.2010 as null and void. The learned Trial Judge has dismissed the suit as not maintainable. The suit was rejected before the parties entered appearance.



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6. If an opportunity is given to the Revision Petitioner to contest the appeal, that would have served the interest of justice. It is true that much hardship was caused to the respondent due to the inordinate delay in filing the appeal. Since the petitioner had opted to work out her remedy by way of preferring first appeal, a liberal view can be taken to condone the delay by imposing cost.

7. Considering the facts and circumstances and in the interest of justice, an opportunity should be given to the parties to contest the appeal. When it was suggested during the proceedings that a cost of Rs.5000/- would be imposed as a condition to allow the Civil Revision Petition, the petitioner readily agreed and paid the cost of Rs.5000/- to the respondent in the open court itself.

8. In the result, this Civil Revision Petition is **allowed** and the order of learned Sub-Judge, Alandur dated 01.04.2022 in I.A.No.40 of 2019 in A.S.SR.No. 1899 of 2019 is set aside. However, taking into consideration of



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the delay already occurred, the learned Sub-Judge, Alandur is impressed to dispose the appeal as expeditiously as possible. Consequently, the connected Civil Miscellaneous Petition is closed.

24.06.2022

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To

Subordinate Judge,
Alandur.



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R.N.MANJULA, J.

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