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C.M.P. No. 10808 of 2022 in
C.R.P. No. 1199 of 2017

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T.V.THAMILSELVI, J.

This Civil Miscellaneous Petition has been filed to condone the delay of 1355 days in preferring the above petition to restore the C.R.P. (PD) No. 1199 of 2017, which was dismissed on 16.07.2018.

2. Today, when the matter taken up for hearing, both learned counsel for petitioner and the learned counsel for respondent appeared.

3. The Revision Petitioner is the plaintiff in the suit in O.S.No. 9 of 2012 on the file of District Munsif, Rasipuram against the defendants for the relief of partition and separate possession. During the pendency of the suit proceedings, he has filed an application to send the document for forensic lab, more particularly, the disputed Will. For that, they have filed an application in I.A.No.896 of 2014 and the said application was dismissed by



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the trial court on merits. Challenging the said order, he preferred the Civil Revision Petition in C.R.P.No. 1199 of 2017. During the pendency of Revision Petition, the suit was dismissed for default on 06.12.2017 and accordingly, the above Revision Petition was also dismissed on 16.07.2018 on the ground that the suit itself was dismissed and nothing survives in the Revision Petition.

4. The learned counsel for petitioner would further submit that subsequently, he filed application in I.A.No.523 of 2018 under Order 9 Rule 9 of C.P.C. to restore the suit and the same was allowed on 01.03.2022. Thereafter, he has taken steps to restore the C.R.P., but there is a delay of 1355 days in filing the petition. The reasons assigned by the petitioner is that the delay in getting copy application during the Covid pandemic period. As per the affidavit, the copy application was made ready only on 15.03.2022. Thereafter, he filed this petition.



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5. Admittedly, for the past two years, due to covid, the proceedings of the courts are stopped and furthermore, the dispute between parties is with regard to the Will. So, adjudication must be proceeded in the Revision Petition. Therefore, in order to give a fair chance and to adjudicate the Revision Petition, this Court is inclined to allow this petition on condition that the petitioner shall pay a cost of Rs.2500/- payable to the learned counsel for contesting respondents on or before 29.09.2022.

6. Post the matter for reporting compliance on 30.09.2022.

20.09.2022

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20.09.2022