



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

**THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN**

**CRP (NPD) No. 4301 of 2018**

C.V.Venkataramanappa

... Petitioner/Petitioner/Appellant

**Vs**

1. K.Narayanasamy
2. Akkamma @ Thayamma
3. Radhamma
- Muniamma (Deceased)
- C.V.Venkatappa @ Srinivasan (Deceased)
4. Chinna Venkataramanappa
5. Pillodu @ Amaranarayanasamy
6. Nagarathinamma
7. Padma
8. Mangala
9. Baby @ Manjula
10. Venkatalakshmamma

11. Mangammal



12. Savithramma

13. Balaji

...Respondents/Respondents/Respondents

**PRAYER:** Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order passed in I.A.No. 61 of 2013 in unnumbered A.S.No. Of 2013 dated 09.11.2018 on the file of the Sub Court at Hosur, Krishnagiri District.

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For Petitioner : M/s. Kaviya  
for Mr. R.Jayaprakash

For RR 1 to 3 : Mr. V.Nicholas

For RR 4 to 9 & 13: Mr. V.Raghavachari

For 12<sup>th</sup> Respondent: Mr. J.James

For RR 10 & 11 : No appearance

### **ORDER**

The Civil Revision Petition has been filed questioning an order in I.A.No.61 of 2013 in an unnumbered Appeal Suit on the file of the Sub Court at Hosur. The said Interlocutory Application in I.A.No. 61 of 2013 had been filed by the revision petitioner herein / third defendant in O.S.No. 24 of 1996.



2. The said suit was contested and during trial, the plaintiff had examined three witnesses and the defendants had examined 7 witnesses.

The present petitioner was examined as DW-3. On the side of the plaintiff, Exs. A-1 to A-8 were marked. On the side of the defendants, Exs. B-1 to B-13 were marked. As Court Exhibits, X-1 and X-2 were also marked. There cannot be any grievance that opportunity had not been granted either during the course of trial or even during the pre-trial proceedings to the revision petitioner herein.

3. Questioning that particular Judgment dated 22.12.2008, the 6<sup>th</sup> to 12<sup>th</sup> defendants had filed A.S.No. 11 of 2007. The present revision petitioner had contested the said appeal and finally, the said appeal came to be dismissed on 13.02.2012 since steps had not been taken.

4. Thereafter, the present revision petitioner filed I.A.No. 61 of 2013 along with an Appeal Suit and the said Interlocutory Application was to condone the delay of 2453 days in filing the Appeal Suit.

5. The said application came up for consideration before the learned Sub Judge at Hosur and by an order dated 09.11.2018, the said application



was dismissed, necessitating filing of the present Revision Petition.

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6. The matter had come before me on an earlier date on 13.04.2022 when I had an opportunity to hear arguments. Heard further arguments. It is seen from a perusal of the order now questioned in the present Revision Petition that during the hearing of the Interlocutory Application, the present revision petitioner had actually examined himself as PW-1 and had also filed documents as Exs. P-1 series which relate to his medical records.

7. This places the petitioner in a quandry. He states in the affidavit that he contested A.S.No. 11 of 2007 filed by the 6<sup>th</sup> to 12<sup>th</sup> defendants in the suit. He then states that there were some medical conditions which prevented him from filing an appeal within the period of limitation. That cannot be an acceptable reason since the medical conditions had not prevented him from contesting the appeal filed by the 6<sup>th</sup> to 12<sup>th</sup> defendants. If he had cause for grievance over the Judgment delivered in the Original Suit then, while contesting A.S.No. 11 of 2007, he could very well have filed Cross Objections which is permissible in law or could have filed an independent Appeal and could have taken up either one of the two steps. He had entered appearance through an Advocate and the law



prescribes that within 30 days from such receipt of summons in the First Appeal, anyone of the respondents in the Appeal can file an Cross Objections. That option was always available at that particular point of time.

8. There was no grievance that the petitioner suffered from any medical ailment which prevented him even from contesting A.S.No. 11 of 2007. Even if A.S.No. 11 of 2007 came to be dismissed for non prosecution, still as one of the respondents in the Appeal, the present petitioner could have urged the Court to pass an order on merits since he had been examined as a witness in the suit and was a respondent in the Appeal and therefore should be heard on merits. He had not taken any one of the aforementioned steps but rather had sought to explain the delay of 2453 days in filing the First Appeal. Though he had been examined as witness and had produced documents, the learned Sub Judge had, after considering all the documents and the position of law as applicable to the facts had thought it fit to dismiss the said application seeking to condone the delay.

9. It had been very specifically stated that the present petitioner had not pleaded that he suffered from medical ailment at the time when he



should have preferred the First Appeal. It had also been stated that the reasons advanced for the delay, were not acceptable or not believable and cannot be taken at their face value.

10. The learned Sub Judge had also relied on earlier precedents. I hold it would not be prudent on the part of this Court to interfere with such a well reasoned order of the learned Sub Judge and proceed to condone the delay when the Court of first instance had given a definite opinion that the reasons advanced are not acceptable and cannot be countenanced as the reasons lawfully acceptable to condone the considerable delay of 2453 days in filing the Appeal Suit.

11. The present Revision Petition stands dismissed. No order as to costs.

**18.04.2022**

vsg

Index: Yes/No

Speaking order / Non speaking order

To:



1. Sub Court at Hosur, Krishnagiri District.

2. The Section Officer,  
VR Section,  
Madras High Court, Chennai.

**C.V.KARTHIKEYAN, J.**

Vsg



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