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CMP No.6213 of 2019 in  
CRP No.970 of 2016

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**D.KRISHNAKUMAR, J.**

This civil miscellaneous petition has been filed to condone the delay of 266 days in filing the petition to restore CRP 970 of 2016.

2. The Civil Revision Petition was filed to set aside the fair and decreetal order passed in I.A.1512 of 2013 in O.S.No.275 of 2008 by the Trial Court. This Court vide order dated 07.03.2018, has allowed the CRP, subject to the payment of Cost of Rs.5,000/- to the respondent, within a period of two weeks from the date of receipt of a copy of this order, failing which the Civil Revision Petition stands dismissed.

3. The learned counsel for the petitioner submitted that, the petitioner had made payment by Demand Draft in time. However, it was returned by the respondent for untenable reasons. Hence, he filed a memo with Demand Draft before the Munsif Court, but it was returned. Therefore, the petitioner made a petition in MP SR 118967 of 2018 for extension of time for payment of costs and the same was returned by the Registry on the ground that, since a long period had elapsed, petitioner should seek to reopen the CRP and then only can seek for extension of time. In such circumstances, there occurred a delay and hence, this petition has been filed.



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4. The learned counsel appearing for the respondent filed counter affidavit and submitted that the petitioner herein had filed the main suit in O.S.No.275 of 2008 for permanent injunction against the respondent, which was dismissed for default on 04.04.2012. Thereafter, he filed an application in I.A.No.1512 of 2013 to condone the delay of 261 days in filing the set aside petition and the same was dismissed on merits by the Trial Court, which was impugned in the CRP.

5. The learned Counsel further submitted that, the suit property, to an total extent of 72 cents, was sold by the petitioner/plaintiff on 29.10.2014, i.e. after the suit was dismissed for default on 04.04.2012, to one M/s Abimaan Builders and promoters. He further submitted that the builders had developed the properties and constructed Apartments, who in turn sold to various persons. Therefore, now the plaintiff is not in possession of the suit property and hence, the civil miscellaneous petition is liable to be dismissed.

6. Heard the counsel for both the parties. I have perused the materials on record.

7. Admittedly, the original suit itself was filed for permanent injunction, restraining the defendant/ respondent herein and their men from interfering or encroaching the peaceful possession and enjoyment of the plaintiff/ petitioner herein in the suit property. As stated by the respondent, now the petitioner has not been in possession of the suit property and he had sold the property to the builders and the suit property was developed by the promoters as Apartments,



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who in turn sold the same to various persons. The above fact is not denied by the counsel for the petitioner. In view of the subsequent events taken place, the plaintiff's title itself has been transferred to the Builders, through whom the possession of the property was also handed over to various persons by constructing Apartments. Hence, there is no grounds to entertain the condone delay application and to extend the time for payment of costs, as ordered by this Court vide order dated 07.03.2018 in CRP 970 of 2016. Further, a perusal of the affidavit shows that no satisfactory explanation given by the petitioner, in support of the petition. Thus, there is no merits in the civil miscellaneous petition and hence, the same is liable to be rejected.

8. Accordingly, this civil miscellaneous petition is dismissed. No costs.

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