



CRP (MD) No.1103 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

CRP (MD) No.1103 of 2018

and

CMP (MD) No.4758 of 2018

1.Vijayakumaran

2.Leela

... Petitioner

Vs

1.Sundari

2.Vasanthakumari

3.Vijayakumari

4.Selvakumaran

... Respondents

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, to call for the records and set aside the fair and decreetal order dated 21.03.2018 in IA.No.461 of 2014 in ASSR.No.342 of 2014 on the file of the Sub Ordinate Judge, Kuzhithurai and allow this civil revision petition.

For Petitioner : Mr.H.Lakshmi Shankar



CRP (MD) No.1103 of 2018

ORDER

WEB COPY

This civil revision petition has been filed as against the fair and decreetal order dated 21.03.2018 in IA.No.461 of 2014 in ASSR.No.342 of 2014 passed by the learned Sub Ordinate Judge, Kuzhithurai.

2.The petitioners have preferred an appeal as against the final decree passed in IA.No.200 of 2011 in OS.No.550 of 2001 with a delay of 167 days. The petitioners haave taken a ground that the first petitioner was affected with some kidney ailments and underwent surgery and therefore, he could not file the appeal in time. However, the appellate Court being not satisfied with the reasons has dismissed the application. Challenging the same, this civil revision petition is filed.

3.The learned Counsel for the petitioners submits that during the final decree proceedings, the property in Survey No.193/3, which is not a suit schedule property has also been included. The appeal was filed only in respect of



CRP (MD) No.1103 of 2018

Survey No.193/3, which is not at all a suit property.

However the appellate Court without considering the same has dismissed the application.

4.The learned Counsel for the respondents submits that the petitioners participated in the final decree proceedings, advocate commissioner was appointed, he also filed his report, but the petitioners have not raised any objections to the said report and hence, the appellate Court has rightly rejected his application.

5.This Court considered the rival submissions and perused the material placed on record.

6.The petitioners claim that the final decree proceedings have been passed including the property in Survey No.193/3, which is not at all a suit schedule property. Challenging the said final decree proceedings the petitioners have filed an appeal, however with a delay of 167 days. The reason for the said delay, according to the petitioners, is that the first petitioner had kidney related issues and he underwent surgery and therefore, the

3/5



CRP (MD) No.1103 of 2018

appeal could not be filed in time. He has also produced some medical records to substantiate his claim.

7. In order to provide one opportunity to the petitioners, this petition is allowed, with a cost of Rs.10,000/- [Rupees Ten Thousand], which shall be paid by the petitioners to the respondents within a period of three weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition shall stand closed.

10.11.2022

dsk

To

The Sub Ordinate Judge,
Kuzhithurai.



WEB COPY



CRP (MD) No.1103 of 2018

B. PUGALENDHI, J.

dsk

CRP (MD) No.1103 of 2018

10.11.2022