



CRP(NPD)(MD)No.2158 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 01.11.2022

CORAM:

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

CRP(NPD)(MD)No.2158 of 2022

Alagar @ Ramanujan

... Petitioner

versus

1. Sri Renga Natchiyar
2. Andal
3. Krishnaveni
4. Venkatesan
5. Balamurugan

... Respondents

Civil Revision Petition filed under Section 115 C.P.C. against the order dated 06.06.2022 passed in I.A.No.18 of 2021 in unnumbered appeal suit filed before the learned Subordinate Judge, Thirumangalam.

For Petitioner : Mr.N.Vallinayagam

ORDER

This Civil Revision Petition is filed against the order dated 06.06.2022 passed in I.A.No.18 of 2021 in unnumbered appeal suit filed before the learned Subordinate Judge, Thirumangalam.



2. The petitioner has filed a suit for partition in O.S.No.34 of 2014 before the District Munsif cum Judicial Magistrate, Peraiyur. The said suit was dismissed by Judgment and Decree dated 10.08.2016. Aggrieved over the same, he filed an appeal before the Sub Court, Thirumangalam, along with an application in I.A.No.18 of 2021 to condone the delay of 1586 days in filing the appeal. The said application was dismissed by the Appellate Court by order dated 06.06.2022. Challenging the same, the present Civil Revision Petition is filed.

3. The learned counsel appearing for the petitioner submits that the petitioner was working as a Catering Labour in Chennai from July 2016. At the time of passing of judgment, the petitioner was in Chennai and he was not able to come immediately. Further, in the second week of October 2016, he was suffering from jaundice and stomach complications, therefore, he could not move away from Chennai and only after February 2020, he started to recover. Thereafter, due to the pandemic period, he could not come to his native place. Therefore, the delay of 1586 days had occurred. Though the petitioner has explained sufficient reasons for each and every day, the Appellate Court has not considered the same and dismissed the said application. In support of his contention, the learned counsel has also relied upon a Judgment of the Hon'ble Supreme Court in the case of *N.Balakrishnan*



CRP(NPD)(MD)No.2158 of 2022

vs. M.Krishnamurthy reported in **1998 AIR SCW 3139**.

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4. This Court considered the submission made by the learned counsel appearing for the petitioner.

5. The suit filed by the petitioner for partition was dismissed by the trial Court by Judgment and Decree dated 10.08.2016. If the petitioner is aggrieved over the Judgment passed in the partition suit, he should have filed the appeal suit immediately within a period of 30 days from the date of receipt of a copy of the Judgment, but, he has kept quite for more than four years and chosen to file the appeal suit only in the year 2021 with a delay of 1586 days.

6. The delay of 1586 days is an inordinate delay. Further, the reasons stated by the petitioner do not disclose any sufficient cause for the delay. It is seen that though the petitioner claims that in the month of October 2016, he was suffering from Jaundice and stomach complications, however, he has not produced any material to prove the same.

7. In the Judgment relied on by the learned counsel appearing for the petitioner, the Hon'ble Apex Court held that the words "sufficient cause" u/s 5 of the Limitation Act should receive a liberal construction so as to advance



CRP(NPD)(MD)No.2158 of 2022

substantial justice, but, in the subsequent Judgment, the Hon'ble Apex Court, in the case of H.Dohil Constructions Private Ltd. vs. Nahar Exports Ltd. ((2015) 1 SCC 680) held that unless a party seeking for condonation of delay gives sufficient cause for the delay, the delay cannot be condoned.

8. In the absence of sufficient cause for the delay and in the absence of any material to prove the same, this Court is not inclined to entertain the Civil Revision Petition.

9. Accordingly, the Civil Revision Petition is dismissed. No costs.

01.11.2022

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CRP(NPD)(MD)No.2158 of 2022

B.PUGALENDHI, J.

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CRP(NPD)(MD)No.2158 of 2022

01.11.2022