



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **01.04.2022**

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P (MD)No.1871 of 2017

WEB COPY

Sukumar

... Petitioner/ Petitioner
Appellant

Vs.

1.Ramesh

2.Pitchaiyan

3.The Commissioner,

Panchayat Union Office,

Thanjavur Town and Munsif.

... Respondents/ Respondents
Respondents

PRAYER : Civil Revision Petition is filed under Article 227 of Constitution of India as against the fair and decreetal order, dated, 06.10.2016 passed in I.A.No.6 of 2015 in unnumbered A.S /2015 (CFR No.881 of 2015) on the file of Principal Sub-Court, Thanjavur.

For Petitioner : Mr.M.P.Senthil

For Respondents : No appearance

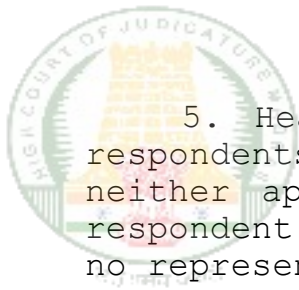
ORDER

The present petition has been filed challenging an order passed by the learned Principal Subordinate Judge, Thanjavur refusing to condone the delay of 447 days in filing first appeal.

2. The plaintiff filed a suit for bare injunction. The trial Court decreed the suit partly with regard to the land, rejecting the prayer with regard to the trees standing over the said land. Aggrieved over the same, the plaintiff filed first appeal before Principal Sub-Court, Thanjavur with the delay of 447 days.

3. According to the plaintiff, he had suffered Heart Attack and he underwent a surgery. Hence, there is a delay of 447 days.

4. The respondents 1 and 2 in the first appeal filed a counter disputing the averments in the condone delay petition. The learned Subordinate Judge arrived at a finding that the appellant has not filed any document relating to the illness or any discharge summary from the hospital. Hence, the First Appellate Court has proceeded to dismiss the condone delay application on the ground that the plaintiff has not explained the delay without any documents. As against the same, the present civil revision petition has been filed.



5. Heard the learned counsel for the petitioner. Though the respondents 1 and 2 have been served, there is no representation neither appeared in person nor through counsel. Though the third respondent has been served and represented through counsel, there is no representation on the side of the third respondent also.

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6. I have carefully considered the reasons assigned by the petitioner for the condonation of delay. Considering the findings of the trial Court that the land belongs to the appellant and the fact that no first appeal has been filed on the side of the defendants and also the length of the delay, this Court is of the view that the delay of 447 days may be condoned in the interest of justice. The order passed by the learned Principal Subordinate Judge in I.A.No.6 of 2015 in unnumbered A.S. /2015(CFR No.881 of 2015) is set aside, I.A.No.6 of 2015 stands allowed. The First Appellate Court is directed to number the appeal, heard the same on merits and dispose it of on or before 31.12.2022. Accordingly, this Civil Revision Petition is allowed. No costs.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

gbg

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1.The Principal Sub-Judge,
Thanjavur.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai. (2 COPIES)

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-16267[F] dated 04/04/2022)

C.R.P(MD)No.1871 of 2017

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RD(19.04.2022) 2P 5C