



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.01.2022

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD) No.2375 of 2017

M.Anbalagan

.. Petitioner/Petitioner/
Plaintiff

-vs-

Mrs.Kanagam (Died)

1.Mrs.Bommi
2.Michael Raj
3.Seemati
4.C.Krishnan

.. Respondents/Respondents/
Defendants

Prayer :- Petition filed under Article 227 of the Constitution of India to set aside the order dated 25.10.2016 made in I.A.No.583 of 2015 in O.S.No.153 of 2008 on the file of the Sub Court, Nagercoil.

For Petitioner	:	Mr.H.Thayumanaswamy
For R1	:	Mr.Niranjana S. Kumar
For R4	:	Mr.S.Srinivasaraghavan

ORDER

The only short point involved in this Civil Revision Petition is the validity of the order dismissing the application in I.A.No.583 of 2015 in O.S.No.153 of 2008 by the learned Principal Subordinate Judge, Nagercoil. I.A.No.583 of 2015 was filed to restore I.A.No.440 of 2014, which, in turn, was filed to condone the delay of 330 days in filing the petition to restore the suit in O.S.No.153 of 2008, which was dismissed for default on 25.07.2013.

2.Records would show that I.A.No.440 of 2014 was dismissed for not taking steps on 22.09.2014 and on 24.09.2014, the petitioner had immediately filed the impugned application for restoring the said Interlocutory Application.



3.The learned Principal Subordinate Judge, Nagercoil, has dismissed the said application stating that it is nothing but an attempt to protract the proceedings.

4.The learned counsel appearing for respondents 1 and 4 has not been able to vehemently contest the revision.

5.I am unable to subscribe to the reasoning of the learned Judge in dismissing the petition in the light of the fact that the application in I.A.No.583 of 2015 has been filed immediately that too within a period of 2 days from the date of dismissal of I.A.No.440 of 2014. This Civil Revision Petition is, therefore, allowed and the order dated 25.10.2016, is set aside and I.A.No.440 of 2018 is restored to the file, which shall be disposed of within a period of one month from the date of receipt of a copy of this order. No costs.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

abr

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

The Sub Judge, Nagercoil.

+1 CC to M/s.NIRANJAN S KUMAR, Advocate (SR-1210[F] dated 11/01/2022)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-1068[F] dated 10/01/2022)

+1 CC to M/s.H.THAYUMANASWAMY, Advocate (SR-1059[F] dated 10/01/2022)

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RD(04.02.2022) 2P 5C