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CRP(NPD)No.3958



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 24.07.2023**

**CORAM:**

**THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

**C.R.P.(NPD)No.3958 of 2017**

Jayesh R.Jagtap

.. Petitioner

Vs.

1.Manjula Jadhav

2.Savitha

3.Sandhya

4.Suresh

5.S.Durairajan

... Respondents

**Prayer:** Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order dated 25.07.2017 made in C.M.P.No.1150 of 2016 in A.S.SR.No.37925 of 2016 on the file of the learned Principal Judge, City Civil Court, Chennai, against O.S.No.2554 of 2013 on the file of the learned XV Assistant Judge, City Civil Court, Chennai.

For Petitioner : Mr.M.A.Abdul Wahab

For R5 : Mr.A.Muthukumar



## **ORDER**

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Heard the learned counsel for the civil revision petitioner and the learned counsel for the 5<sup>th</sup> respondent. I have carefully gone through the records.

2. The plaintiff is the civil revision petitioner. He filed a suit for specific performance in O.S.No.2554 of 2013 on the file of the learned XV Assistant Judge, City Civil Court, Chennai. The said suit was dismissed in and by way of the judgment dated 24.04.2015. To condone the delay of 290 days in filing the appeal, the civil revision petitioner took out an application in C.M.P.No.1150 of 2016. The said application was dismissed by an order dated 25.07.2017.

3. The explanation given by the petitioner is that he had gone to Mumbai, which seems to be his native place, for the purpose of attending the calamity in the family and hence, he could not concentrate on filing the appeal in the present case. The delay is 290 days.

4. Mr.A.Muthukumar, learned counsel for the 5<sup>th</sup> respondent would submit that the parties have been litigating from 1981 with respect to the suit property and a suit for recovery of possession is pending before the Original Side of the Madras High Court, in which the civil revision petitioner is the 6<sup>th</sup> defendant. If the delay is condoned, it will only drag on the proceedings, which had been initiated by him,



which is more than four decades old.

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5. I have to see whether there is sufficient cause within the meaning of Order XLI Rule 3(a) of C.P.C. The length of delay does not matter, but the explanation alone matters. The explanation given in this case is that the petitioner had to be away due to some calamity in the family.

6. I feel, interest of justice will be served, if the delay is condoned on heavy terms. The Civil Revision Petition stands allowed. Consequently, the order passed in C.M.P.No.1150 of 2016 in A.S.SR.No.37925 of 2016 on the file of the learned Principal Judge, City Civil Court, Chennai, is set aside on condition that the petitioner pays a sum of Rs.15,000/- (Rupees Fifteen thousand only) by way of demand draft in the name of Mrs.S.Durairajan, the 5<sup>th</sup> respondent, on or before 04.08.2023.

7. In case, the cost is not paid before 04.08.2023, the Civil Revision Petition will stand dismissed. If the cost is paid, the learned Principal District Judge, City Civil Court, Chennai, is requested to number the appeal and either take it herself or post it before the other Judge so as to ensure that the appeal reaches finality on or before 31.10.2023. Full discretion is given to the learned Judge to decide the appeal even if attempts are made to drag on the proceedings either by the appellant or by the respondents. It is made clear that the date fixed by the Court must be strictly adhered



to and a report be submitted to this Court on conclusion of the appeal proceedings on or before 31.10.2023. No costs.

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24.07.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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**Note:Issue order copy on 24.07.2023**

To

1. The Principal Judge, City Civil Court, Chennai,

2.XV Assistant Judge  
City Civil Court, Chennai.

**V.LAKSHMINARAYANAN,J.**



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