



CRP(NPD)No.63



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

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CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.636 of 2017
and C.M.P.No.3247 of 2017

P.S.Saraswathi

.. Petitioner

Vs.

1.K.R.Narasimhan (died)

2.K.L.Ranganayaki

3.P.S.Radha

4.A.S.Indirani

5.K.J.Sundari

Thirumal (died)

6.C.Arun Zavier

7.Balu

8.R.Thirunavukkarasu

9.Krishnan

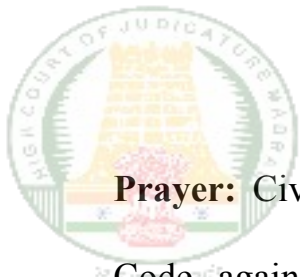
10.Parvathi

11.K.N.Rajalakshmi

12.Sarvatul Hassan

... Respondents

(Respondents 11 & 12 brought on record
as legal heirs of the deceased 1st respondent
viz. K.P.Narasimhan vide Court order
dated 07.07.2023 made in C.M.P.Nos.7174,
7180 and 7182 of 2023 in CRP.(NPD)No.
636 of 2017)



Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 30.11.2015 made in I.A.No.976 of 2012 in A.S.No.32 of 2009 on the file of the III Additional District Court, Salem.

For Petitioner : Mrs.M.Sneha

For Respondents : Mr.E.Prabhu

ORDER

The revision arises against an order passed under Section 5 of the Limitation Act.

2. The petitioner before me is the plaintiff in the suit. She succeeded and obtained a decree of partition in the lower appellate Court. The 1st respondent filed an application in I.A.No.976 of 2012 in A.S.No.32 of 2009 on the file of the III Additional District Court, Salem, under Order XLI Rule 21 of the Code of Civil Procedure read with Section 5 of the Limitation Act.

3. Considering the allegations made against the previous counsel and casting some doubts on the manner in which the vakalat was filed, the learned Judge condoned the delay of 740 days in filing the application under Order XLI Rule 21 of C.P.C. and allowed the same by imposing the costs of Rs.2,500/- each, payable to the counsel for the revision petitioner and respondents 8 & 9. Challenging the same, the revision has been filed.



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4. I heard Mrs.M.Sneha, learned counsel for the petitioner and Mr.E.Prabhu, learned counsel for the legal heirs of the 1st respondent.

5. The delay having been condoned by the lower appellate Court exercising its discretion. Hence, scope of this revision under Article 227 of the Constitution of India is limited. This position is settled by the Supreme Court in the case of **N.Balakrishnan vs. M.Krishnamurthy**, reported in **1998 (7) SCC 123**. Nonetheless, the cost of Rs.2,500/- each imposed on the 1st respondent before me is not even a flea bite. Therefore, I am not interfering with the discretion exercised by the Court below and I am enhancing the cost from Rs.2,500/- to Rs.10,000/-.

6. Mrs. M.Sneha, learned counsel for the revision petitioner will represent that the amount of Rs.7,500/- has already been deposited before the lower appellate Court. She fairly stated that she does not want the costs of Rs.2,500/- to be paid to her and it may be paid to the Tamil Nadu State Legal Services Authority attached to the High Court, Chennai.

7. Accordingly, learned counsel for the 1st respondent shall pay the enhanced costs of Rs.7,500/- to the Tamil Nadu State Legal Services Authority attached to the High Court, Chennai, within a period of two weeks from today i.e., on or before

21.07.2023 and the proof of payment shall be filed before the Court. On showing the
<https://www.mhc.tn.gov.in/judis>



proof of payment, the lower appellate Court shall number the application filed by the 1st respondent under Order XLI Rule 21 of C.P.C., allow the same and dispose of the appeal on or before 30.11.2023.

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8. With the above directions, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

07.07.2023

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

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To

III Additional District Judge, Salem.



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V.LAKSHMINARAYANAN,J.

Kj

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