



CMP(MD) No.2852 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)

Monday, the Seventh day of August Two Thousand and Twenty Three

PRESENT

The Hon`ble Mrs.Justice K.GOVINDARAJAN THILAKAVADI

CMP(MD) No.2852 of 2023
IN
CRP(MD)SR.No.14761 of 2023

R.MANI,

... PETITIONER/PETITIONER

Vs

NALLAMANI AMMAL,

... RESPONDENT/RESPONDENT

Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 519 days in filing the above Civil Revision Petition.

PRAYER IN CRP(MD)SR.No.14761/2023:

Pleased to set aside the fair and decreetal order dated 28.06.2019 passed in I.A.No.1 of 2019 in I.A.No.1265 of 2016 in O.S.No.29 of 2013 on the file of Learned Principal District Munsif Court, Tenkasi.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.M.P.SENTHIL, Advocate for the petitioner, the court made the following order:-

This application is filed to condone the delay of 519 days in filing the above civil



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revision petition.

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2. Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondent and perused the materials available on record.

3. According to the petitioner/plaintiff, he filed a suit in O.S.No.29 of 2013 before the Principal District Munsif Court, Tenkasi, for declaration of title over the 4th item of suit schedule property and for permanent injunction. The said suit was dismissed for default on 28.06.2016 for non-appearance of the petitioner/plaintiff. Thereafter, the petitioner/plaintiff filed an application in I.A.No.1265 of 2016 for restoring the suit which was allowed on 06.03.2019. Subsequently, the suit was posted for filing notice of hearing on 23.11.2016. Unfortunately, the petitioner was unable to appear before the Court on that day and the said I.A was dismissed for default for non-appearance. The petitioner again filed I.A.No.10 of 2019 to restore the application in I.A.No.1265 of 2016. However, the trial Court dismissed the above petition. Against which, the above C.M.P is filed to condone the delay of 519 days in filing the above C.R.P.

4. The learned counsel appearing for the petitioner would submit that the delay is neither wilful nor wanton, but only due to the bonafide reasons stated above. Therefore, if the delay is not condoned, he will loose his valuable right over the property which is the subject matter of the suit.



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5.The learned counsel appearing for the respondent vehemently opposed the said application stating that there is no sufficient reason attributed by the petitioner to condone the above delay.

6.However, in the interest of justice, this Court is inclined to allow the petition on condition directing the petitioner to pay a sum of Rs.3,000/- (Rupees Three thousand only) to the respondent on or before 28.08.2023.

7.Accordingly, this petition is allowed on the above terms.

sd/-
07/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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TO
THE PRINCIPAL DISTRICT MUNSIF,
TENKASI.

ORDER IN
CMP(MD) No.2852 of 2023
IN
CRP(MD)SR.No.14761 of 2023
Date :07/08/2023

SA/BUC/SAR. /17.08.2023/3P/2C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.