



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.01.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD)(MD)No.4 of 2023

Venkatachalapathi

... Petitioner/Petitioner/Appellant/
Appellant/Plaintiff

Vs

Baluchamy (Died)

1.Kumarasamy
2.Indirani
3.Rajkumar
4.Tharmendran
5.Rajesh

... Respondents 1 to 5/Respondents 1 to 6
/Defendants

Prayer: Petition filed under Article 227 of the Constitution of India, to call for the records relating to the fair and decreetal order passed by the Principal Sub Court, Pudukottai in I.A.No.19 of 2018 in A.S.SR.No.454 of 2018, dated 12.10.2018 and set aside the same.

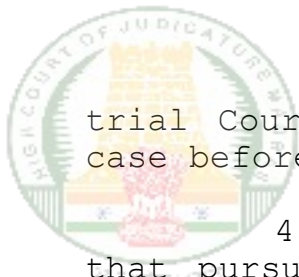
For Petitioner : Mr.A.Balakrishnan
For Respondents : Mr.G.S.Ashok Adhithyan

O R D E R

This Civil Revision Petition is filed as against the fair and decreetal order passed by the learned Principal Sub Judge, Pudukottai in I.A.No.19 of 2018 in A.S.SR.No.454 of 2018, dated 12.10.2018.

2.The petitioner herein, as a plaintiff has filed a suit in O.S.No.38 of 2008 as against his brothers, before the District Munsif cum Judicial Magistrate Court, Keeranur, for the relief of permanent injunction and the same was dismissed, as against which, the petitioner/ plaintiff filed an appeal in A.S.SR.No.454 of 2018 along with an application in I.A.No.19 of 2018 to condone the delay of 2008 days in filing the appeal. The application filed by the petitioner/plaintiff was dismissed by the first Appellate Court. Aggrieved over the same, the present Civil Revision Petition is filed.

3.The learned counsel appearing for the petitioner / plaintiff claims that his wife was suffering with certain kidney ailments and she was taking treatment at the relevant point of time. Hence, he failed to file the appeal in time. However, the first Appellate Court without considering the same, dismissed the application. The learned counsel further submits that he is in possession of the property and he is having a good case before the



trial Court and he must be provided an opportunity to de is
case before the first Appellate Court.

4.The learned counsel appearing for the respondent submits that pursuant to the Judgment and decree passed in O.S.No.345 of 2018, the respondent/defendant filed a suit for recovery of possession and in that suit, the petitioner has entered appearance and also contesting the suit. Having entered appearance in the other suit, the ground taken by the petitioner that his wife was suffering with kidney ailments is not proper. Therefore, the dismissal of the application by the trial Court needs no interference.

5.This Court considered the rival submissions made and also perused the materials placed on record.

6.On perusal of records shows that another suit for recovery of possession is also pending in O.S.No.45 of 2018 between the parties, wherein, this petitioner has also entered appearance and contesting the suit. It is to be noted that the suit is at the stage of arguments. This court is not inclined to accept the reasons stated by the petitioner for such an inordinate delay of 2008 days in filing the appeal, in the absence of any documents to substantiate that the petitioner's wife was hospitalised and took treatment for kidney ailments at the relevant point of time.

7.In view of the above, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (RTI)

// True Copy //

/03/2023

Sub Assistant Registrar(CS)

vrn

To

The Principal Sub Judge, Pudukottai.

+1CC to G.S.Asok Adhithyan,Advocate(SR.NO.4638)

+1CC to K.P.Narayana Kumar,Advocate(SR.NO.5036)

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MGJ(13.03.2023) 2P 4C