



C.R.P.(MD)No.1116 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.1116 of 2019

Arumugam

... Petitioner/2nd defendant

-vs-

Periyakkal

... Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to allow the Civil Revision Petition thereby set aside the decree and order dated 18.03.2019 passed in I.A.No.1034 of 2018 in O.S.No. 340 of 2015, on the file of the Principal District Munsif, Manapparai, Trichy District.

For Petitioner : Mr.B.Prahalad Ravi

For Respondent : Mr.C.Bethanasamy

ORDER

The present Civil Revision Petition has been filed by the petitioner under Section 115 Civil Procedure Code, against the fair and decreetal order dated 18.03.2019 passed in I.A.No.1034 of 2018 in O.S.No.340 of 2015, on the file of the Principal District Munsif, Manapparai, Trichy District.



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2. The petitioner herein is the 2nd defendant and the respondent herein is the plaintiff.

3. The learned counsel for the petitioner would submit that his sister, who is the respondent herein, has filed a suit in O.S.No.340 of 2015 for the relief of partition, wherein, an ex-parte decree was passed on 02.11.2016. He would also further submits that while filing an application to set aside the ex-parte decree, there was a delay of 714 days on account of his ill-health. However, the said ground was disbelieved by the Court below and has dismissed the condone delay application filed under Section 5 of Limitation Act.

4. The learned counsel for the petitioner would submit that since this is only a partition suit, and also would submit that he was not able to present before the court only on account of his illness, he prayed for allowing the Civil Revision Petition.

5. Though, the learned counsel for the respondent initially objected to condone the delay, however, considering the nature of the suit, the learned counsel for the respondent would submit that the Civil Revision Petition may



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be allowed, however, with a direction to the court below to dispose of the suit within a period of 6 months.

6. Having considered the submission on either side and also having considered the submission made by the respondent for not raising serious objection in allowing the Civil Revision Petition, this Court is inclined to allow this petition.

7. In the result, this Civil Revision Petition is allowed by setting aside fair and decreetal order dated 18.03.2019 passed in I.A.No.1034 of 2018 in O.S.No.340 of 2015, on the file of the Principal District Munsif, Manapparai, Trichy District. Considering the long pendency of the suit, the court below is directed to dispose of the suit within a period of six months from the date of receipt of a copy of this order.

23.08.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

The Principal District Munsif,
Manapparai, Trichy District.



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C.KUMARAPPAN,J.

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