



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
Civil Appellate Jurisdiction

Tuesday, the Thirty First day of October Two Thousand and Twenty Three

PRESENT

The Hon`ble Mr.Justice C.SARAVANAN

CMP(MD). No.14497 of 2023
in
C.R.P.(MD)No.902 of 2021

Mariappan

... Petitioner/Petitioner

Vs

1 Muthulakshmi,
2 Papa,
3 Sownthira Raj,
4 Baskaran,
5 Jil Jegathesh,
6 Rajalakshmi,
7 Nirmala,
8 Gandhimathi

... Respondents/Respondents

Prayer :-

This Petition filed under order a Rule 9 of CPC., to Condone Delay of 55 days
in filing the Petition in CRP(MD) No.902 of 2021 and decide the case on merits.

Prayer in C.R.P.(MD)No.902 of 2021:-



Constitution of India, to set-aside the Fair and Decreetal order dated 03.03.2021 passed in I.A.No.1 of 2020 in O.S.No.458 of 2011 on the file of the 1st Additional District Munsif Court, Tirunelveli, by allowing the Civil Revision Petition.

ORDER:- This Petition coming on for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr. D. Nallathambi, Advocate for the Petitioner and of Mr. P.K. Thiyagu, Advocate for the 2nd to 8th respondents, this Court made the following order:

This Miscellaneous Petition has been filed to condone the delay of 55 days in filing the restoration petition in the above civil revision petition.

2. Heard the learned counsel for the petitioner and the respondent Nos.2 to 8.

3. The above Civil Revision Petition was dismissed on 17.04.2023 as there was no appearance on behalf of the petitioner. While dismissing this civil revision petition, this Court has also made observation touching on the merits of the case. Under these circumstances, the present petition has been filed to restore the order passed by this Court.



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4. The learned counsel for the petitioner submits that there is a sufficient cause for condoning the delay and therefore one last opportunity may be given to the petitioner to explain the cause in the main civil revision petition.

5. The learned counsel for the respondent Nos.2 to 8 are present before this Court and submits that an order passed by this Court on 17.04.2023 is on merit and therefore needs no interference by this Court. Therefore, the present civil miscellaneous petition is liable to be dismissed.

6. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the respondent Nos.2 to 8.

7. I am of the view that the petitioner deserves one chance to explain the cause against the order passed by the learned First Additional District Munsif Court, Tirunelveli in I.A.No.1 of 2020 declining to condone the delay of 2924 days in filing the application to set aside the *ex parte* decree dated 19.01.2012 as Execution Petition itself came to be filed during 2019. The petitioner appears to be in possession of the property and appears to have made improvement after the suit was decreed *ex parte* on 19.01.2012.

8. Considering the above, the order passed by this Court in the main civil



revision petition on 17.04.2023 is recalled and the civil revision petition is restored to the file of this Court.

9. Accordingly, this miscellaneous petition stands allowed.

Sd/-

Assistant Registrar(C.O)

// True Copy //

/12/2023

Sub Assistant Registrar(CS)

TO

The 1st Additional District Munsif,
Tirunelveli.

Copy to:

1. The Section Officer,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)
2. The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai

ORDER DATED : 31/10/2023

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RESTORE

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CMP(MD). No.14497 of 2023

in

C.R.P.(MD)No.902 of 2021

SI (13.12.2023) 4P/ 5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17.07.2023.

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