



C.R.P.(MD).No.1725 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 19.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD)No.1725 of 2019

and

C.M.P(MD) No.8858 of 2019

T.Glory Bai

... Petitioner/Petitioner/
Defendant

-vs-

Devadhas @ Devaraj (M/57 years)

S/o.Rajaiyan

No.21/5A/2, New No.21/124,

Perampi,

Kuzhicode Post,

Valvachagostam Village,

Kalkulam Taluk,

Kanyakumari District,

South India,

Represented by the Power of Attorney Holder

S.Jaya

W/o. Devadhas @ Devaraj.

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C, against the fair and decreetal order dated 25.07.2019 passed in I.A.No.801 of 2017 in O.S.No.145 of 2015 on the file of the Subordinate Court, Padmanabhapuram, Kanyakumari District.



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For Petitioner : Mr.R.J.Karthick

For Respondent : Mr.T.Arul

ORDER

The present Civil Revision Petition has been filed by the petitioner under Section 115 of C.P.C, against the fair and decreetal order dated 25.07.2019 passed in I.A.No.801 of 2017 in O.S.No.145 of 2015 on the file of the Subordinate Court, Padmanabhapuram, Kanyakumari District.

2. The learned counsel appearing for the petitioner would submit that in the suit for partition against the *ex parte* decree, he moved an application to condone the delay of 176 days which was dismissed on 25.07.2019, against which, the instant Civil Revision Petition has been filed.

3. The learned counsel for the petitioner would submit that only because of the ill health, he was not in a position to file an application to set aside the *ex-parte* decree in time and therefore, he seeks intervention of this Court by allowing this Civil Revision Petition.



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4. This Court has perused the order of the Court below, wherein, the Court below dismissed the application on the ground that there is no written statement filed even after lapse of 270 days and the Court below has disbelieved the reasons shown by the petitioner. However, considering the nature of the suit, *qua* the same is for the relief of partition, this Court deems it appropriate to consider the request made by the petitioner.

5. In the result, this Civil Revision petition stands **allowed** and thereby the delay of 176 days is ordered to be condoned and the petition in I.A.No. 801 of 2017 is allowed. However, considering the request made by the learned counsel for the respondent to give a direction to the Court below, the Court below is directed to dispose of the suit in O.S.No.145 of 2015 as expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of this order. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

19.09.2023

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

1. The Subordinate Court,
Padmanabhapuram,
Kanyakumari District.



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C.KUMARAPPAN,J.

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