



C.R.P(MD)No.2431 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.07.2023**

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THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P(MD)No.2431 of 2017

A.Sahul Hameed

...Petitioner/Petitioner/
Appellant

Vs.

1.M.Mumtaj Begam

2.J.Syed Mohamed

3.M.Meera Sait

4.The District Collector,
Collectorate Office, Theni,
Theni District.

5.The Land Surveyor,
The District Land Survey Office,
Collectorate Campus, Theni,
Theni District.

6.The Tahsilthar,
Tahsilthar Office,
Near Ulavar Sandai,
Theni,
Theni District.

7.The Head Surveyor,
Tahsilthar Office Campus,
Near Ulavar Sandai,
Theni,
Theni District.



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8.The Sub Registrar,
Sub Registrar Office,
N.R.T.Nagar,
Theni,
Theni District.

9.S.Mujibur Rahuman

...Respondents/Respondents/
Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 12.10.2017 made in I.A.No. 70 of 2016 in unnumbered A.S.No. of 2016 on the file of the Sub Court, Theni.

For Petitioner : Mr.M.Mohamed Ibram Saibu
M/s.Ajmal Associates

For R1, R2 to R9 : No Appearance

For R4 to R8 : Mr.M.Senthil Ayyanar
Govenment Advocate

ORDER

The present civil revision petition has been filed against the order passed by the Sub Court, Theni in I.A.No.70 of 2016 in unnumbered A.S.No. of 2016, dated 12.10.2017.

2. The petitioner has filed a memo to dispense with notice as against the third respondent. Hence, this civil revision petition is dismissed as against the third respondent.



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3. It appears that the plaintiff/ninth respondent herein has filed a suit in O.S.No.71 of 2012 against the first defendant, who is the petitioner herein and other defendants for the relief of injunction. It appears that the suit was decreed on 21.08.2013.

4. The petitioner herein appears to have filed an application for condonation of delay of 942 days in filing the appeal against the judgment and decree, dated 21.08.2013. Even in the previous suit in O.S.No.255 of 2009, the petitioner has filed an application to condone the delay of 1019 days and it was ultimately dismissed. Hence the respondents herein prayed to dismiss the application.

5. The learned Trial Judge vide order dated 12.10.2017 has rejected the petitioner's petition to condone the delay of 942 days. The learned Trial Judge has disbelieved the averments of the petitioner and ultimately dismissed the application.

6. Aggrieved with the order, the petitioner herein has come up with this petition.



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7. The learned counsel for the petitioner would submit before this Court that only because of the ailment of the petitioner, she was not able to file an appeal in time, therefore, he prayed to condone the delay of 942 days.

8. On behalf of the respondents 4 to 8, the learned Government Advocate is present. In respect of other private respondents 1, 2 to 9, there is no representation on behalf of them.

9. I have given my anxious consideration to either side submission.

10. The main contention urged by the learned counsel for the petitioner is that the petitioner's wife was suffering from jaundice and that is why there was a delay in filing the connected appeal. However, this Court perused the order of the Trial Court in O.S.No.71 of 2012, it appears that the petitioner has not filed any written statement to the suit, which factum was also fairly conceded by the learned counsel for the petitioner. Therefore, considering the long delay of 942 days and not filing a written statement before the trial Court, this Court do not find any justification in condoning the delay of 942 days.



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11. In the result, this Civil Revision Petition stands **dismissed**. No costs.

27.07.2023

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

1.The Sub Court,
Theni.

2.The Section Officer
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN,J.

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