



WEB COPY



C.R.P.No.2416 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.2416 of 2021

N.Gomathi

... Petitioner

Vs.

1.S.Saraswathy
2.A.Revathy
3.A.Ganesamurthy @ Ganesan
4.A.Murthy @ Saravanan
Sarojini Devi (Died)
5.A.Umamaheswari
6.A.Rama Parameswari
7.A.Sivalingeswari

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order and decree dated 28.10.2020 passed in I.A.No.1 of 2019 in ASCFR.No.18071 of 2019 on the file of Principal District Judge, Coimbatore.

For Petitioner	: Mr.S.S.Mathivanan
For respondent 1 to 4	: M/s.M.Muthukrishnan
For respondent 5 to 7	: Not ready in notice



ORDER

The Civil Revision Petition is filed challenging the order passed by the First Appellate Court dismissing the application filed by the petitioner to condone the delay of 223 days in representing the appeal papers.

2. In the affidavit filed in support of the condone delay petition, it was stated by the petitioner that she had preferred an appeal challenging the final decree passed against her dated 15.04.2009 and the appeal papers were returned by the Court on 01.09.2018 and the same was represented only on 29.04.2019 with the delay of 223 days. It was stated by the petitioner that the returned papers could not be represented due to non-availability of certain particulars and after gathering necessary particulars, she met her counsel and instructed him. Thereafter, the papers were represented on 29.04.2019.

3. Though notice is not served on respondents 5 to 7, the Civil Revision Petition is relating to delay in representing the returned papers. It is settled law that delay in representation is a matter between the Court and the litigant. Therefore, this Court is inclined to dispose of the civil revision petition even



without notice to the unserved respondents.

WEB COPY

4. A reading of the impugned order would suggest that the Court was carried away by the fact that there was enormous delay of 3396 days in filing the main appeal. The present petition filed by the petitioner is only to condone the delay of 223 days in representing the appeal papers. If the delay in representation is condoned, then the application for condoning the delay in appeal can be taken up for consideration. The First Appellate Court, at the time of considering the petition to condone the delay in representation, ought not to have seen the enormous delay in filing main appeal. Therefore, taking liberal view of the delay in representing the appeal papers, this Court is inclined to allow the revision by setting aside the order impugned in this revision.

5. The civil revision petition is allowed on condition that the petitioner shall deposit a sum of Rs.1000/- (Rupees Thousand Only) to the credit of Chief Justice Relief fund, High Court of Madras within a period of two weeks from the date of receipt of a copy of this order. In case, the petitioner failed to



C.R.P.No.2416 of 2024.

deposit the amount within the time stipulated, the civil revision petition shall automatically stand dismissed. On payment of amount within the time stipulated, the civil revision petition stands allowed and the First Appellate Court is directed to consider the application filed by the petitioner to condone the delay in representing the appeal on its own merits without being influenced by allowing of this revision. No costs.

08.03.2024

Index : Yes / No
Internet : Yes / No
nr

To

The learned Principal District Judge, Coimbatore.



WEB COPY



C.R.P.No.2416 of 2021

S.SOUNTHAR, J.

nr

C.R.P.No.2416 of 2021

08.03.2024