



C.R.P.(NPD)No.775 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2024

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THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.775 of 2023

and

C.M.P.No.5966 of 2023

Chandran

.. Petitioner

Vs.

1.Mohan

2.Sub Registrar No.1,
Office of the District Registrar,
Mayiladuthurai Town,
Mayiladuthurai District – 609001

3.The District Registrar,
Office of the District Registrar,
Mayiladuthurai Town,
Mayiladuthurai District – 609 001

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and decreetal order passed in I.A.No.3 of 2022 in O.S.No.19 of 2017, dated 13.12.2022, on the file of the Court of the learned Additional District Judge at Mayiladuthurai.



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For Petitioner : Mr.A.Muthukumar

For R1 : Mr.B.Jawahar

For R2 & R3 : Dr.S.Suriya
Additional Government Pleader

ORDER

The present Civil Revision Petition arises against an order passed by the learned Additional District Judge at Mayiladuthurai in I.A.No.3 of 2022 in O.S.No.19 of 2017 dated 13.12.2022.

2. O.S.No.19 of 2017 was presented by the mother of the civil revision petitioner one Thillaiyammal. The 1st defendant one Mohan is her son and the other two defendants are State Respondents. The suit seeks cancellation of the settlement deed executed by the plaintiff, dated 02.08.2016, in favour of the 1st defendant and for consequential reliefs.

3. After the presentation of the suit, the plaintiff passed away on 23.05.2019. In order to bring himself on record, the civil revision petitioner filed an application under Order XXII of the Code of Civil Procedure. This application was based on a “WILL” dated 21.06.2017. The application was



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returned for compliance and it was not represented in time. Therefore, a petition was filed in I.A.No.3 of 2022 seeking to condone the delay of 825 days in representation of the petition filed to bring himself on record as the legal representative of the deceased Thillaiyammal.

4. The learned Judge ordered notice in the application, received a counter and dismissed the petition stating that the reasons given in the affidavit are not sufficient, against which the present revision has been presented before this Court.

5. Heard Mr.A.Muthukumar, appearing on behalf of the petitioner, Mr.B.Jawahar, appearing on behalf of the 1st respondent and Dr.S.Suriya, learned Additional Government Pleader, appearing on behalf of the 2nd and 3rd respondents.

6. The petition to condone the delay in representation is actually a matter between the Court and the party. Infact, in the judgment of this Court in ***Bhuvaneswari vs. R.Elumalai [(2002) 3 CTC 22]***, it is held that time granted for representation should be treated as an administrative order and



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cannot be treated as a judicial one. Furthermore, a Division Bench of this Court in *Y.Cusbar vs. K.Subbarayan [1993 TNLJ 375]* has held that the Court must adopt a liberal attitude when it comes to condoning the delay in representation.

7. The petitioner has filed an application in time to bring himself on record pursuant to the death of his mother on 23.05.2019. The petition under Order XXII Rule 10 of the Code of Civil Procedure was presented on 15.06.2019. Thereafter, he would plead that on account of corona virus, he was not in a position to meet his lawyer and hence, there occasioned a delay. The Court could have adopted a liberal attitude and could have condoned the delay. Unfortunately, it has dismissed the petition.

8. Be that as it may, following the precedent of this Court in *Y.Cusbar's case*, I am inclined to condone the delay of 825 days in representation.

9. Therefore, the learned Additional District Judge at Mayiladuthurai



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shall number the application under Order XXII Rule 10 of the Code of Civil Procedure and proceed further with the matter on merits. I am taking this view because vital rights over immovable properties are involved in the suit, and in case of a decree, it will result in both the parties having share over the property.

10. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

23.07.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned Additional District Judge,
Mayiladuthurai

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and
C.M.P.No.5966 of 2023

23.07.2024