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C.R.P.(NPD)No.4968 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

C.R.P. (NPD) No. 4968 of 2024

G. Marimuthu

.. Petitioner

Versus

1. The Chairman / Member,
The Tamil Nadu Slum Clearance Board,
Kamarajar Salai, Chennai - 600 005.
2. Mr.Baskar
3. Suseela
4. Chandra

.. Respondents

Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the fair and decreetal order dated 02.04.2023 made in I.A. No. 2 of 2022 in A.S. SR. No. 394 of 2022 passed by the Principal Judge, City Civil Court, Chennai.

For Petitioner : Mr. E. Senthil Kumar

For R1 : Mr. S. Karthikeyan

For R2 to R4 : No appearance



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ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 02.04.2023 passed in I.A. No. 2 of 2022 in A.S. SR. No. 394 of 2022 on the file of the Principal Judge, City Civil Court, Chennai dismissing the application filed to condone the delay of 118 days in filing the appeal against the decree dated 24.07.2019.

2. The suit has been originally filed for partition and separate possession of the property by dividing it in to four equal share and to allot one share to the petitioner. Whereas the defendants took a stand in the written statement that the property was purchased by the father in the name of the plaintiff and therefore, they are also entitled to a share. Their stand has been accepted by the Trial Court and a preliminary decree was passed as against which the plaintiff filed an appeal with a petition to condone the delay of 118 days. The reason assigned by the petitioner for the delay is that his erstwhile counsel applied the copies of judgement and decree only on 29.07.2019, which was made ready on 02.11.2019 and thereafter due to nation wide lockdown imposed to curb the spread of covid-19 Pandemic, the delay has occurred in



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filing the appeal. However, the appellate Court dismissed the application on the ground that the petitioner has not assigned proper reasons in the application for condonation of delay.

3. It is not in dispute that at the relevant point of time, there was a nation wide lockdown imposed to curb the spread of Covid-19 Pandemic. According to the petitioner, it is in such a situation, there was a delay on the part of the counsel for the petitioner to apply the copy application promptly and the delay of 118 days is bonafide.

4. On appreciating the material records, this Court is of the view that the reason assigned for delay in preferring the appeal is reasonable and it has been explained properly. Further, the suit was filed for partition in which the right of the parties has to be adjudicated on merits. In such view of the matter, this Court is inclined to given one more chance to the petitioner to prosecute the appeal on merits.

5. In view of the above, the impugned order dated 25.04.2023 in I.A.No. 2 of 2022 in A.S.Sr.No.394 of 2022 passed by the Principal City Civil



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Court, Chennai, is set aside. The first appellate Court shall number the appeal and decide it on merits.

6. With the above direction, this Civil Revision Petition is disposed of.

No costs.

03.12.2024

Index: Yes/No

Speaking order/Non-speaking order

Neutral Citation: Yes/No

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To

The Principal Judge, Civil Civil Court, Chennai.



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N.SATHISH KUMAR, J.

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