



C.R.P.No.2515 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.No.2515 of 2024

N.Muralidharan

... Petitioner

Vs.

1.Venkatesh

2.Madhan

3.Sujatha

4.Maliga

... Respondents

PRAYER: Civil Revision Petition has been filed under Article 227 of Constitution of India, 1950, praying to set aside the docket order passed by the learned Principal District Judge, Chengalpattu in I.A.SR.No.13002 of 2024 in I.A.No.1 of 2023 in Prob.O.P.SR.No.11949 of 2023 dated 27.03.2024.

For Petitioner : Mr.Na.Malai Saravanan

ORDER

This revision has been filed seeking to set aside the docket order dated 27.03.2024 passed by the learned Principal District Judge,



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Chengalpattu in I.A.SR.No.13002 of 2024 in I.A.No.1 of 2023 in Prob
O.P.SR.No.11949 of 2023.

2.The petitioner filed Prob.O.P.SR.No.11949 of 2023 seeking probate of Will dated 02.08.1995. The trial Court returned the papers for want of compliance of certain defects, later the petitioner complied with the defects and represented the same along with a petition to condone the delay of 245 days in representing the O.P. The condone delay petition was numbered as I.A.No.1 of 2023 and posted on 15.09.2023 for hearing, on which day, the date was wrongly noted as though the case was posted to 20.10.2023. Later it came to know that on 15.09.2023 itself the delay was condoned on condition that the petitioner to pay Rs.500/- as cost. Since the date was wrongly noted as 20.10.2023 instead of 20.09.2023, the condition could not be complied with and the petitioner could not appear on 20.09.2023, when the matter was called. Hence, I.A.No.1 of 2023 was



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dismissed. Later the petitioner filed I.A.SR.No.13002 of 2024 in I.A.No.1 of 2023 seeking to restore I.A.No.1 of 2023 and O.P.SR.No.11949 of 2023 and to extend the time to pay the cost as per the order dated 15.09.2023, which was rejected by order dated 27.03.2024 for the reason that the Court has become *functus officio*.

3.The contention of the learned counsel for petitioner is that if the the delay is condoned and O.P. is restored, the petitioner would prove his valuable right in prosecuting the Probate petition.

4.Considering the submissions made and on perusal of the material, it is seen that the trial Court already condoned the delay in I.A.No.1 of 2023 with condition. The only reason for dismissal of I.A. is, the petitioner not complied with the condition. Now, the learned counsel submits that the petitioner is ready to comply with the condition.



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M.NIRMAL KUMAR, J.

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5.In view of the same, the docket order dated 27.03.2024 passed by the learned Principal District Judge, Chengalpattu in I.A.SR.No.13002 of 2024 in I.A.No.1 of 2023 in Prob.O.P.SR.No.11949 of 2023 is set aside and the Civil Revision Petition is accordingly, allowed. No costs.

16.07.2024

Index : Yes/No

Internet : Yes/No

Speaking order/Non speaking order

Neutral Citation : Yes/No

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To

The Principal District Judge,
Chengalpattu.

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