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C.R.P. No.2609 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.09.2024

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P. No.2609 of 2024

Arayee

... Petitioner

Vs.

1.Malarmathi

2.P.Ramasamy

3.P.Kandasamy @ Selvaraj

4.P.Subramani

5.P.Solairajan

6.P.Paranjothi

7.Ramayee

8.P.Lakshmanan

... Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the order passed in I.A.No.1 of 2023 in unnumbered A.S.No..... of 2023 against O.S.No.67 of 2012 on the file of the Principal District Judge at Salem.

For petitioner

: Mr.M.Malaviya for
Mr.T.Manickavasagan

For Respondents

: Mr.S.Vijaya Raghavan for R1

No appearance for R3 to R7



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ORDER

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2.The petitioner is the 8th defendant in the suit filed by the first respondent/plaintiff in O.S.No.67 of 2012 on the file of II Additional Sub Court, Salem. The suit was filed for specific performance against the petitioner and respondents 2 to 8 herein. After scrupulous trial, the trial Court had decreed the suit vide judgment and decree dated 30.04.2015. Challenging the said judgment, the petitioner/8th defendant had filed Appeal Suit before the Principal District Court, Salem along with an application in I.A.No.1 of 2023 in unnumbered A.S.No..... of 2023 seeking to condone the delay of 2322 days in filing the Appeal Suit. The appellate Court, finding that no sufficient and acceptable cause had been shown by the petitioner to condone the delay of 2322 days and the application has been filed only to give pinpricks to the respondents, had dismissed the application. Challenging the said order, the present civil revision petition has been filed.



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3.Mr.M.Malaviya, learned counsel representing for

Mr.T.Manickavasagan, learned counsel for the petitioner herein, would submit that the petitioner/8th defendant is an illiterate and the first respondent herein/plaintiff is none other than the sister-in-law of the petitioner. Subsequent to the decree, settlement talks were going on between the family members, however, the first respondent/plaintiff did not keep up the word and thereby, there had been a delay in filing the appeal. He would further submit that if the delay is not condoned, it would cause irreparable loss and undue hardship to the petitioner. He would also submit that the petitioner appeared through counsel and she had also filed a written statement before the trial Court. He would further submit that though the petitioner is the relative of the respondents, she was not aware of the decree and that the respondents had given assurance that the matter will be settled amicably and on that trust alone, she had not taken any valid steps to file an appeal within time and that only after service of notice in the Execution Proceedings in E.P.No.125/2017, the petitioner has filed the appeal suit with the delay of 2542 days. He would further submit that the appellate Court, without considering the fact that the petitioner is an illiterate lady and she had no knowledge about the further proceedings of the suit decree, holding that no



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sufficient cause has been shown by the petitioner to condone the enormous delay of 2542 days in filing the appeal suit, had erred in dismissing the petition and thereby, he would seek to set aside the order passed by the court below and allow the civil revision petition.

4.Heard the learned counsel for the petitioner and perused the materials available on record.

5.The judgment and decree in O.S.No.67 of 2017 has been passed by the II Additional Sub Judge, Salem on 30.04.2015. After lapse of about 6-1/2 years, the petitioner had chosen to file an Appeal with a petition to condone such a huge delay. Finding that in the meantime, the first respondent had obtained a sale deed in her favour by filing REP No.125 of 2017 and therefore, the contention of the petitioner that she had been keeping silent without even meeting her counsel with regard to the proceedings is unbelievable and that she had filed the petition only to drag on the proceedings without any proper explanation for such a huge delay, had rightly dismissed the petition.



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6. In view of the above, this Court does not find any illegality or irregularity in the order of the Court below. Accordingly, the civil revision petition fails and the same is dismissed. No costs. Consequently, connected civil miscellaneous petition is also dismissed.

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Index: Yes/No
raa

To

1. Principal District Court, Salem.



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A.D.JAGADISH CHANDIRA, J.

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