



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

WEB COPY

Monday, the Twenty Second day of July Two Thousand and Twenty Four

PRESENT

The Hon`ble Mr.Justice D.BHARATHA CHAKRAVARTHY

CMP(MD) No.8516 of 2024

IN

CRP(MD) No.1868 of 2022

LILLY RAJAM

... PETITIONER / PETITIONER

Vs

1 LAKSHMANA THEVAR

ANNATHAI (DIED)

2 ANBUGNANAM

3 JOSEPH

4 MICHAEL RAJ

CHANDRASEKARAN (DIED)

5 RAMYA

... RESPONDENTS / RESPONDENTS

Prayer in CMP(MD)No.8516 of 2024:

This Civil Miscellaneous Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to Condone delay of 573 dys in filing the petition seeking to restore the CRP(NPD) (MD) No.1868 of 2022 which was dismissed for non prosecution on 01.11.2022 on the file of this Honourable Court and thus render justice.



Prayer in CRP(MD). 1868/ 2022 :

Civil Revision Petition filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order dated 29-07-2022 passed in E.A.No.326 of 2017 in E.P.No.27 of 2003 in O.S.No.13 of 1996 on the file of the Principal Sub Court, Tenkasi and thus render justice.

ORDER : This petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of A.SANKARARAMASUBRAMANIAN, Advocate for the petitioner and of the respondents not appearing either in person or by an advocate, this court made the following order:-

Long long ago, on 27.09.1996, a suit in O.S.No.13 of 1996 was decreed by directing the defendant to pay a sum of Rs.1,07,200/- to the plaintiff along with further interest at the rate of 6% per annum. Sadly, the parties did not think it fit to comply with the decree of the Court and the decree-holder was driven to the ordeal of filing the execution petition. E.P.No.27 of 2003 was filed on 27.01.2003. In the said execution petition, E.A.No.326 of 2017 was filed to set aside the order of attachment before judgment in I.A.No.53 of 1996. By an order, dated 29.07.2022, the Trial Court found that, pending the order of attachment, the settlement deed was executed in favour of the petitioner / third party claimant and dismissed the E.A.No.326 of 2017. As against the said order, the present Civil Revision Petition in C.R.P(MD)No.1868 of 2022 was filed. The same was dismissed for non prosecution on 01.11.2022. Now, the present C.M.P(MD)No.8516 of 2024 is filed to restore the said Civil Revision Petition along with a prayer to condone the delay of 573 days in filing the petition.



2. The learned Counsel appearing on behalf of the petitioner would vehemently argue that one more opportunity should be given to the revision petitioner. He would further submit that the order of the Trial Court results in grave prejudice to the third party petitioner, whose valuable right to property is lost on account of the order.

3. The facts are narrated above. Therefore, this Court is rejecting the submission made on behalf of the learned Counsel for the petitioner. Though normally, the Court will be lenient in restoring the Civil Revision Petition, in view of the above facts, the parties cannot be permitted to utilize the leniency shown so as to extend it beyond the limit, so that, the very continuation of proceedings itself becomes injustice to the respondents. Hence, this Civil Miscellaneous Petition stands dismissed.

Sd/-

Assistant Registrar(CS I)

// True Copy //

/08/2024

Sub Assistant Registrar
(CS - I/ II / III /IV)

TO

The Principal Subordinate Judge, Tenkasi.



COPY TO:

THE SECTION OFFICER,
JUDICIAL SECTION,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CMP(MD) No.8516 of 2024
IN
CRP(MD) No.1868 of 2022
Date :22/07/2024

MK/01.08.2024 4P 3C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023