



C.R.P(MD)No.1822 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.11.2024

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

C.R.P(MD)No.1822 of 2023

R.Vijayaramalingam

... Petitioner / Appellant

Vs

V.Karuppiah (Died)

1.K.Muthu Kumar

2.K.Santhi

3.K.Nagajothi

... Respondents / Respondent

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to condone the delay of 386 days in filing the Civil Revision Petition against the order made in I.A.No.22 of 2017 in A.S.No.11 of 2021 dated 04.09.2021 on the file of Principal District Court, Theni.

For Petitioner : Mr.V.P.Rajan

For R1 to R3 : Mr.K.Vidya



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ORDER

This Civil Revision Petition is filed to condone the delay of 386 days in filing the Civil Revision Petition against the order made in I.A.No.22 of 2017 in A.S.No.11 of 2021 dated 04.09.2021 on the file of Principal District Court, Theni.

2. The suit in O.S.No.84 of 2009 was filed against the revision petitioner by one Karuppiyah. Karuppiyah died and his legal representatives were brought on record subsequently. The suit was filed for specific performance based upon the sale agreement dated 14.06.2006. The trial Court after full trial, decreed the suit as prayed for with cost, directing the revision petitioner herein to execute the sale deed by receiving the balance amount within a period of three months. Against which, the proposed appeal was intended to be filed by the revision petitioner and there is a delay of 1133 days in preferring the appeal. To condone the delay, I.A.No.22 of 2017 was filed before the appellate Court stating that due to his financial position, he could not prosecute the suit proceedings properly since he suffered loss in the



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business and his mother was taking treatment for cancer, an ex parte decree was passed. Against the ex parte order, the appeal is preferred and there is a delay. That was resisted by the respondent by filing counter stating that no proper reason was assigned by the revision petitioner to condone the delay. The appellate Court by the impugned order dismissed the petition stating that no proper reason was assigned by the revision petitioner to condone the delay. Against which, this Civil Revision Petition is preferred.

3. Heard both sides.

4. In pursuance of the judgment and decree passed on 03.01.2014, E.P.No.122 of 2014 was filed. Sale deed was executed. Now the E.P., is also terminated. At this stage, it appears that the revision petitioner wants to prefer an appeal. As mentioned above, only a bald, baseless, meritless reason is mentioned in the petition stating that due to their financial difficulties, they were not in a position to prosecute the appeal within the time stipulated.



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5. Learned counsel for the respondent by relying upon the judgment reported in **2024 SCR 241** in the case of ***Pathapati Subba Reddy (Died) by Lrs and Others Vs. The Special Deputy Collector (LA)***, would submit that without a right is accrued to the respondent, the petition filed under Section 5 of the Limitation Act should not be casually allowed.

6. No doubt that the appeal is a statutory remedy available to a party, at the same time, they must exhibit proper vigilance in prosecuting the matters. Keeping the matter endlessly and keeping the other side on the probable or possibility of further proceedings, cannot be appreciated and may not be in the interest of the parties also. The other party cannot be kept under the continuous threat of litigation. It is a basic principle which must be adopted while entertaining a petition under Section 5 of the Limitation Act. That is why it is repeatedly stating that the reason must be properly assigned which are acceptable and reasonable and genuine one. Here absolutely, only a bald ground is mentioned which does not satisfy the requirement of law as elicited by the Hon'ble Supreme Court in a judgment reported in **[2013] 9 SCR 782** in the case



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of *Esha Bhattacharjee Vs Managing Committee of Raghunathpur
Nafar Academy and others.*

7. In view of the above, this Civil Revision Petition is dismissed.

No costs.

20.11.2024

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

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To

1.The Principal District Court, Theni.

2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN, J.

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