

Sornabai and Another Vs. Monickaraj and Others

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Court : Chennai Madurai

Decided On : Oct-21-2016

Judge : D. Krishnakumar

Appeal No. : C.R.P(NPD)(MD)No. 2096 of 2016

Appellant : Sornabai and Another

Respondent : Monickaraj and Others

Judgement :

(Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the order made in I.A.No.49 of 2007 in A.S.SR.No.2062 of 2007, dated 31.7.2007, on the file of the Principal Subordinate Judge, Nagercoil.)

1. This revision has been filed seeking for a direction to set aside the order made in I.A.No.49 of 2007 in A.S.SR.No.2062 of 2007, dated 31.7.2007, on the file of the Principal Subordinate Judge, Nagercoil.

2. According to the Petitioners, the Petitioners have filed a suit in O.S.No.792 of 2000 before the I Additional District Munsif Court, Nagercoil for permanent injunction against the defendants in respect of the suit schedule properties and the same was dismissed on 16.11.2015. Aggrieved against the same, the Petitioners have filed an appeal in A.S.SR.No.2062 of 2007 along with an application under Section 5 of the Limitation Act to condone the delay of 362 days in filing the appeal. The said application was allowed on payment of costs of Rs.500/- to be

paid on or before 30.07.2007. But the cost was not paid and the said petition was dismissed on 31.7.2007 for non-compliance of the conditional order, dated 16.7.2007. Aggrieved against the same, the Petitioners have filed the present Civil Revision Petition before this Court.

3. Per contra, the learned counsel for the respondents 1,2 and 4 would submit that the Civil Revision Petition itself is not maintainable. If at all the Petitioners have filed appropriate application before the appellate Court under Section 148 of Civil Procedure Code for extension of time to pay the costs, it will give a quietus to the matter.

4. Considering the submissions made on either side, the Civil Revision Petition filed by the revision petitioners cannot be entertained at this stage as the petitioners have an alternative remedy of filing appropriate application under Section 148 of Civil Procedure Code to enlarge the time for payment of costs.

5. In view of the above reasonings, the Civil Revision Petition is disposed of, with a direction to the Petitioners to file appropriate application before the appellate Court within a period of one week from the date of receipt of a copy of this order. On such application being filed by the Petitioners within the aforesaid period, the appellate Court is directed to consider the same and pass appropriate orders on merits and in accordance with law within a period of four weeks thereafter, after providing adequate opportunity to the parties concerned. No costs.

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