

In the Court of Additional District Munsif, Padmanabhapuram.

Present: **Selvi.V.Viswatha, B.A.,LL.B(Hons)., LL.M.,**

Additional District Munsif.

Tuesday the 31st day of August 2021

I.A No.1 of 2019 in O.S No.44 of 2018

N.Raji.

.. Petitioner/Plaintiff..

/ Vs. /

1. N.Radhakumari.

2. S.Ramaswamy.(Died)

.. Respondents/ Defendants ..

This petition is presented before me for final hearing, in presence of Mr.C.S.Lenin, learned counsel for the Petitioner and Mrs.Prabha, learned counsel for the 1st respondent. Upon hearing the counsels on both side and on perusal of the records stood over for consideration till this day, and this court passed the following

ORDER

This petition is filed under Section 5 of Limitation Act to condone the delay of 226 days in filing the petition to implead the legal heirs of 2nd defendant in O.S.No.44 of 2018.

2. Brief of petition facts is as follows:-

The petitioner herein is the plaintiff in the suit and the suit is filed for the relief of declaration to set aside the sale deed and recovery of possession against the defendants 1 and 2. It is stated that on 10.08.2018 Advocate Mrs.M.P.Prabha filed Vakalath for 1st defendant and fresh steps had been ordered to the 2nd defendant returnable by 28.08.2018. It is stated that at request extended time was granted for

taking steps. It is stated that on 24.06.2019 steps was filed to the 2nd defendant. It is stated that the defendant has died on 15.10.2018. It is stated that the petitioner are residing for away from the home town and so he was unaware about the 2nd defendant's death. It is stated that since no steps was taken on 30.07.2019 suit has been dismissed against him. It is stated that the delay caused in impleading the legal heirs of 2nd defendant is neither willful or wanton. Thus this petition is filed to condone the delay caused in filing the impleading petition.

3. The respondents appeared and endorsed no counter.

4. Heard the counsel on both sides and perused the records stood over for consideration.

5. Now the point for consideration is whether the petition has to be allowed or not?

6. The petitioner states the suit has been filed seeking the relief of declaration to set aside the sale deed and recovery of possession. The petitioner states that they are living in faraway from home town and so they were unaware about the death of the 2nd defendant. The petitioner states that the delay caused in impleading the legal heirs of 2nd defendant is neither willful nor wanton.

7. It is settled principle in law that rules of limitation are not meant to destroy the rights of parties but they are meant to see that the parties do not resort dilatory tactics to seek their remedy promptly. The petitioner having setting out the reason for delay caused this court is inclined to allow this petition. Further there cannot be a rigid

approach in these kind of petition.

8. In the result, this petition is allowed. No costs.

Dictated to the Steno-Typist directly, typed by her in computer, corrected and pronounced by me in open court, on this 31st day of August 2021.

Additional District Munsif,
Padmanabhapuram.

ADMC Padmanabhapuram.
IA.No.1/19 in OS.No.44/2018.
Draft/Fair Order:
Dt: 31.08.2021.