



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.03.2015

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (MD) .No.566 of 2015

WEB COPY

1.Elango

2.Mangaiyarkarashi

3.Vadivukkarashi

... Revision Petitioners

vs.

1.Pandian

2.Veeranagammal

... Respondents

PRAYER: This Civil Revision Petition filed under Section 115 of Civil Procedure Code, to call for the records pertaining to the order dated 07.02.2015 made in Unnumbered A.S.No... of 2014 on the file of the Principal Subordinate Court, Dindigul and set aside the same.

For Petitioner : Mr.S.Rajasekar

O R D E R

The plaintiffs in a suit for partition got a decree in his favour of 1/10th share in the suit property. However, aggrieved by the same, they preferred an appeal with delay. The delay is 2918 days. Therefore, they filed an application in I.A.No.81 of 2014 for condoning the delay, which was dismissed by the first appellate Court.

2.The only reason given by the first petitioner is that he was not well and he has to go out of the town to take medical treatment and he was unable to meet his counsel in time. He has also stated that he had arranged for obtaining the certified copies of judgment, but unfortunately not applied by the petitioner's counsel and hence, the appeal was not preferred in time.

3.Even assuming that the reasons assigned by the first plaintiff are true, but not for the length of 2918 days. The first plaintiff has also not stated as to what was the ailment he was suffering from and what kind of treatment he was taking and what is the length of time he was under medical treatment are all not explained by the plaintiffs/petitioners.

4.Besides, the allegation that the counsel had not applied for the copy, was also not supported by filing an affidavit by the advocate or by examining their advocate. The plaintiffs, who had filed the suit and got the same dismissed, are very well aware of the Court proceedings. While so, the negligence of the plaintiffs cannot be allowed to be taken advantage of by them. No doubt, it is axiomatic that condonation of delay is a matter of discretion of the Court. In this case, as there is no sufficient cause and acceptable explanation given by the petitioners, the trial Court has dismissed the same, which does not warrant any interference.

In the result, the civil revision petition is dismissed. No costs.

Sd/-

Assistant Registrar(T&P)

/True Copy/



To
The Principal Subordinate Judge,
Dindigul.

+1cc to Mr.T.LajapathiRoy, Advocate in SR.No.14912/15

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