

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Civil Revision Petition (PD) No.2503 of 2015  
and  
M.P.No.1 of 2015

1.M.Balasubramani  
S/o.N.S.Murugesu Mudaliar

2.M.Ethiraj  
S/o.N.S.Murugesu Mudaliar

... Petitioners

vs

1.C.Suseela  
W/o.Chockalinga Ananadan

2.P.Yamuna  
W/o.Parasuraman

3.K.Shanti  
W/o.T.Kupusami

... Respondents

Civil Revision Petition filed under Article 115 of the Civil Procedure Code against the order of learned Principal Judge, City Civil Court, Chennai, passed in C.M.P.No.756 of 2014 in A.S.S.R.No.25024 of 2014 on 26.02.2015 against the judgment dated 18.11.2013 in I.A.No.11182 of 2011 in O.S.No.5927 of 1997 on the file of IX Assistant City Civil Court, Chennai.

For Petitioners : Mr.P.Sivamani

For Respondents : Mr.G.Palani [R1 & R2]  
No appearance [R3]  
Mr.P.Stalin Selvasekaran

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### **ORDER**

This revision arises against the order of learned Principal Judge, City Civil Court, Chennai, passed in C.M.P.No.756 of 2014 in A.S.S.R.No.25024 of 2014 on 26.02.2015.

2. Third respondent/plaintiff has filed O.S.No.5927 of 1997 on the file of IX Assistant City Civil Court, Chennai, seeking partition. In such suit, the plaintiff has moved I.A.No.11182 of 2011 towards passing a final decree in accordance with the preliminary decree dated 17.02.2011. Such application came to be allowed under order dated 18.11.2013. Against such order, petitioners/defendants 2 and 3 have filed an appeal in A.S.Sr.No.25024 of 2014 on the file of learned Principal Judge, City Civil Court, Chennai. C.M.P.No.756 of 2014 has been moved seeking condonation of delay of 41 days in preferring the appeal. Such petition came to be dismissed under the impugned order. Hence, this revision.

3. Heard learned counsel for petitioners and learned counsel for respondents 1 and 2.

4. In a suit for partition filed in the year 1997, a preliminary decree was passed in 2011 and a final decree was passed in the year 2013. In E.P.No.2331 of 2014, the Court below ordered delivery on 28.04.2014. Such order unsuccessfully was challenged in C.R.P.(NPD) No.2410 of 2014 as this Court dismissed the same on 22.01.2015. In such circumstances, the Court below, in the absence of any material rejected the explanation for delay in filing the appeal to the effect that the delay was occasioned owing to the mother of the counsel having been hospitalized and hence, the defendants 2 and 3 were precluded from contacting him in time. This Court finds no error in the order under challenge.

The Civil Revision Petition, accordingly, is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

**10.06.2016**

Index:yes/no  
Internet:yes  
gm

C.T.SELVAM, J

gm

To

- 1.The Principal Judge,  
City Civil Court,  
Chennai.
- 2.The IX Assistant City Civil Court,  
Chennai.

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