

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.11.2017

Coram

THE HON'BLE MR.JUSTICE RAJIV SHAKDER
&
THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

C.M.P.No.13079 of 2017
in O.S.A.SR.No.47886 of 2017

1.Mr.H.Vaibhav Daga
2.Mrs.Nirmala Daga
3.Mr.Balamurali

... Petitioners/Appellants

Vs.

1. Mr.S. Perumal
2. Mrs.P.Paramavathy
3. Sree Ram Builder

...Respondents/Respondents

PRAYER: This Petition is filed to condone the delay of 229 days in filing above Original Side Appeal.

For Petitioner : Mr. K. Sundararaj

For Respondent : Mr. K. Koteswara Rao

ORDER

(Order of the Court was made by RAJIV SHAKDER, J)

1. This is the petition seeking condonation of delay in filing the appeal. The delay involved is 229 days. When the matter was posted

yesterday, there was no appearance for the petitioner. We, accordingly, adjourned the matter to, today only to hear the counsel for the petitioner before passing any order in the captioned petition.

2. A perusal of the petition would show that the accompanying unnumbered appeal has been filed against the order dated 03.10.2016, passed in Application No.4251 of 2016 in C.S.No.349 of 2016. By virtue of this Order, the learned single Judge, in fact, has permitted the respondents to carry out repairs in Schedule "C" property referred to in the suit.

3. Insofar the petitioners before us are concerned, it is stated that the appeal could not be filed in time on account of the following reasons: financial difficulty and lack of knowledge qua procedure.

4. The grounds to say the least are vague. In any event, we are informed by the learned counsel for the respondent that if the petition is entertained, it will result in condoning a huge period of unexplained delay in preferring an appeal against an interim order, which has already been given effect to.

4.1. Therefore, if we were condone the delay, at this stage it would prejudice the respondents.

4. Having regard to the aforestated reasons, we are inclined to dismiss the petition for condonation of delay. Accordingly, the petition is dismissed. The registry, in these circumstances, need not number the accompanying appeal.

(R.S.A., J.)

(N.S.K., J.)

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Index : yes/no
ggs



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RAJIV SHAKDER, J.
and
N.SATHISH KUMAR, J.

ggs



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