

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

**C.R.P.(N.P.D) No. 2689 of 2013**  
**and**  
**M.P. No. 1 of 2013**

1. Pappathi

2. Samiyathal

3. Arukkani

...Petitioners

Vs

1. Gokila

2. Priya

...Respondents

**Prayer:-** Civil Revision Petition filed Under Article 227 of Constitution of India against the fair and decretal order dated 20.06.2012 made in I.A. No. 304 of 2011 in O.S. No. 144 of 2006 on the file of the I Additional Sub Court, Erode.

For Petitioners : Mr. N. Manokaran  
For Respondents : Mr. S. Kaithamalai Kumaran

**ORDER**

This civil revision petition is directed against the order dated 20 June 2012 in I.A.No.304 of 2011 declining to condone the delay of 1514 days in filing the application to set aside the *ex parte* decree.

2. Heard learned counsel for the petitioners and the learned counsel for the respondents.

3. The petitioners filed a suit in O.S.No.144 of 2006 before the I Additional Sub Court, Erode, praying for a decree of partition. Since the respondents failed to appear before the Court and contest the matter, the trial Court passed an *ex parte* decree on 10 November 2006.

4. The respondents thereafter, filed I.A.No.520 of 2012 to set aside the *ex parte* decree, along with another application in I.A. No. 304 of 2012 to condone the delay of 1514 days.

5. The learned trial Judge, having found that the respondents were minors at that point of time condoned the delay. The said order is under challenge in this civil revision petition.

6. The suit in O.S.No.144 of 2006 was essentially a suit for declaration, permanent injunction and partition. The respondents were represented by the guardian, who is none other than their mother. The mother appears to have lost interest in the litigation and as such, she failed to prosecute the suit. The trial Court therefore, passed an *ex parte* decree on 10 November 2006.

7. The respondents, in the application filed in support of the interlocutory application to condone the delay, contended that they were minors during the currency of the suit and they were not represented by their mother properly. The trial Court having found that the respondents have explained the reasons for the delay in filing the petition to set aside

the *ex parte* decree, exercised the discretion and allowed the application. The trial Court has given cogent reasons in support of its finding that the delay requires to be condoned. I do not find any reason to take a different view in the matter.

In the upshot, I dismiss the civil revision petition. No costs. Consequently, connected miscellaneous petition is closed.

**07.04.2017**

Gms/ak

Index:Yes/No

Internet:Yes/No

To

The I Additional Sub Judge,  
Erode.

**K.K.SASIDHARAN,J.**

Gms /ak

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