



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2018

CORAM

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(NPD) (MD) No.2205 of 2016
and C.M.P. (MD) No.10200 of 2016

1.Pyleese Mary
2.Philomin Rengitha Mary
3.Yesudhas
4.Suseela
5.Amala
...
Petitioners/Petitioners/Appellants

-Vs-

1.Mary Pushpam
2.Mary dora Misi
3.Justin Nirmalan
4.Benjamin
...Respondents/Respondents/Respondents

Prayer: Civil Revision Petition is filed under Section 115 of CPC against the fair and decreetal order dated 20.06.2016 passed in I.A.No.63 of 2014 in A.S.SR.No.2399 of 2014 on the file of the Sub Court, Padmanabhapuram.

For Petitioner	:	Mr. M.P.Senthil
For R4	:	Mr.M.Suresh
		for Mr.J.John Jeyakumar
For R1 and R2	:	No appearance

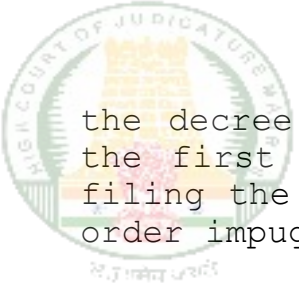
O R D E R

The plaintiffs in O.S.No.201 of 2010 on the file of the Additional District Munsif, Eraniel, are the revision petitioners herein. The suit is for partition and declaration. The said suit was dismissed on 31.01.2014. Questioning the same, the plaintiffs filed A.S.SRNo.2399 of 2014 before the Subordinate Court, Padmanabhapuram. There was a delay of 43 days in filing the said appeal. To condone the same, I.A.No.63 of 2014 was filed. The court below dismissed the said Interlocutory Application. Questioning the same, this Civil Revision Petition has been filed.

2. Heard the learned counsel on either side.

3. The learned counsel for the fourth respondent strongly opposed the prayer sought for by the revision petitioners and wanted this Court to sustain the order passed in the Interlocutory Application.

4. I am of the view that the plaintiffs, having lost before the trial court, are definitely entitled to canvass the correctness of



the decree before the first appellate court. But they should file the first appeal in time. In this case, the delay occasioned in filing the first appeal cannot said to be an inordinate. Hence, the order impugned in this Civil Revision Petition is set aside.

5. In the result, this Civil Revision Petition is allowed. No costs. Consequently, connected C.M.P.(MD) No.10200 of 2016 is closed.

Sd/-
Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS-III)

To,
The Sub Court, Padmanabhapuram.

• 1 CC TO Mr.M.P.Senthil , ADVOCATE IN SR No. 84460.

CM

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