

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Civil Revision Petition (PD) No.3230 of 2019
and C.M.P.No.21041 of 2019

1.Shanthamani
2.Kesavarajan
3.Krishnakumar
4.Dhanasekaran

... Petitioners

-Vs-

1.Anusiya
2.Subathira
3.K.R.Prabakaran
4.K.R.Gopalakrishnan
5.T.Bakkiyalakshmi
6.K.Palanisamy

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India against the fair and decreetal order passed by the Principal District Court, Salem, in I.A.No.297 of 2016 in unnumbered A.S. dated 02.08.2017.

For Petitioners : Mr.C.Rajasekaran

O R D E R

This revision petition has been filed against the fair and decreetal order passed by the Principal District Judge, Salem, in I.A.No.297 of 2016 in unnumbered A.S. dated 02.08.2017.

2. Before the trial Court, the respondents / plaintiffs filed the suit in O.S.No.64 of 2003 for partition, division of property and allotment of share. The said suit has been filed against the petitioner's mother and father. Initially, the petitioner's father was looking after the suit and a preliminary decree was passed on 18.11.2010. Thereafter, final decree was passed in I.A.No.3 of 2012. Subsequently, the petitioner's father died and therefore the petitioners have been impleaded as parties to the proceedings. Thereafter, the mother of the petitioner was looking after the case and there has been no communication or proper information between the counsel and the

petitioners and now only the petitioners have engaged a different counsel and filed an appeal against the preliminary decree.

3. In filing the said appeal, there has been a delay of 2192 days and in order to condone the same, the said application in I.A.No.297 of 2016 was filed, which was dismissed by the first appellate Court, as against which the present revision has been filed.

4. I have heard Mr.C.Rajasekaran, learned counsel for the petitioners and have gone through the materials placed before this Court.

5. The delay is 2192 days in filing the appeal, which is a huge delay. On a perusal of the affidavit filed in support of the application, absolutely no reason has been stated by the petitioner for filing the appeal belatedly with a delay of 2192 days except the reason referred to above.

6. Though normally condone delay petitions would not be dismissed by the Courts of law if such dismissal would take away the substantive right, that too, on a property of the litigant, but at the same time, it is also a settled proposition that when there is a huge delay, the Court cannot, in a routine manner, condone the delay without having a plausible reason acceptable to the Court. The case on hand is one such matter, in which absolutely there is no reason for the delay of 2192 days.

7. Without giving a single reason for such a delay, the petitioner cannot expect the Court to condone the said delay and therefore, there is every justification on the part of the first appellate Court to dismiss the said petition to condone the said delay of 2192 days, by way of the impugned order.

8. In that view of the matter, this Court is not inclined to entertain this revision, as it deserves to be rejected at the threshold and hence, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

KST

To

The Principal District Judge, Salem

C.R.P. (PD) No.3230 of 2019

EV (CO)
SP (19/12/2019)



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