

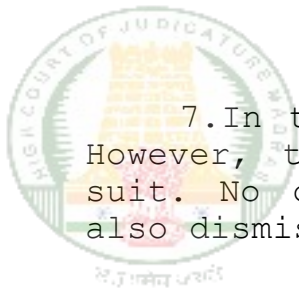
2.The suit in O.S.No.224 of 2004 was filed by the petitioner herein for partition and the same was dismissed on 04.12.2006 for default. Thereafter, the petitioner filed restoration petitions in I.A.Nos.192 and 193 of 2008 in O.S.No.224 of 2004 with petitions for condonation of delay of 1740 days. The said applications for condonation of delay were dismissed on the ground that no satisfactory explanations were found and consequently, the restoration petitions were also dismissed. Aggrieved against the said orders, the present Civil Revision Petitions have been filed.

3.The learned counsel for the petitioner advanced his arguments that the trial Judge has dismissed the applications for condonation of delay without considering the reason that the petitioner was bedridden and hence, he could not file the same in time. Further, he would submit that the trial Court has erred in holding that each day's delay has to be explained. Under such circumstances, the learned counsel for the petitioner strongly contended that the orders passed by the trial Court are liable to be set aside.

4.On the other hand, the learned counsel for the respondents would submit that this is a dispute between two brothers. He would further submit the respondents 3 to 6 have also filed a partition suit and the same is pending. If at all if the petitioner is aggrieved, he can file another partition suit and therefore, he would submit that the restoration of the present suit is not necessary. He would also submit that each and every day delay has not been properly explained and that the Court below has rightly dismissed the applications on the ground that no satisfactory explanation was given. He would further submit that though the petitioner claimed that due to illness, he was not in a position to file petition in time, no medical certificate was produced. Hence, he prayed for dismissal of these Civil Revision Petitions.

5.I have gone through the pleadings and the Judgments passed by the lower Court and the arguments on both sides.

6.This Court finds that there is a dispute between the brothers and that the respondents 3 to 6 are stated to have already filed a suit for partition and the same is also pending. Further, the only reason stated in the affidavit was that due to illness, he could not file the application to set aside the ex-parte decree in time, but the petitioner has not filed any medical certificate for the same. The revision petitioner has filed the application to condone the delay of 1740 days, as if he has got a right to seek the relief of condoning the delay. The contention of the petitioner, without disclosing any justifiable reason cannot be entertained. Therefore, this Court is of the opinion that the lower court has rightly held that the delay has not been explained properly and therefore, dismissed the applications and hence, there is no illegality or irregularity in the order passed by the court below warranting the exercise of the revisional jurisdiction.



7.In the result, these Civil Revision Petitions are dismissed. However, the petitioner is given liberty to file fresh partition suit. No costs. Consequently, connected Miscellaneous Petition is also dismissed.

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Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)

rj2

To

The Principal District Judge,
Dindigul.

**Order made in
C.R.P. (MD) Nos.664 to 667 of 2018
13.09.2019**

MK (19.11.2019) 3P 2C