

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P(NPD)No. 3351 of 2018

1.Subbaraya Gounder
2.Rajamani
3.Selvaraj
4.Palanisamy Gounder
5.Balusamy

..Petitioners

Vs.

Saraswathi

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Code of Civil Procedure, to set aside the fair and decretal order dated 11.08.2018 made in I.A.No. 669 of 2016 in O.S.No. 172 of 2010 on the file of the Sub-Ordinate Judge, Dharapuram.

For Petitioners : Mr.R.Asokan

For Respondent : Mr.N.S.Sivakumar

ORDER

This Civil Revision Petition is against an order passed by the Trial

Court refusing to condone the delay of 1451 days in filing an application to set aside the exparte decree. The manner in which the proceedings have

conducted before the Trial Court shows total carelessness and negligence on part of the petitioner. The suit for partition filed by the respondent, who happens to be sister of the petitioner came to be decreed exparte on 11.10.2012.

2. An affidavit has been prepared some time in July 2014 seeking condonation of delay of 642 days in filing an application under Order 9 Rule 13 to set aside the exparte decree stating that the petitioner had earlier filed an application on 16.10.2012 for setting aside the exparte decree and the said application was missing, hence, the petitioners have come out with this second application. Though the affidavit is dated July 2014 the application was actually presented before the Court only on 27.10.2016. There is no explanation for the said delay. A perusal of the affidavit shows that the affidavit which was prepared in July 2014 has been presented to Court in October 2016, even without making a minimum attempt to include some reason for not filing the application in the interugnam. The delay between July 2014 and October 2016 remains unexplained.

3. The Trial Court has also faulted the petitioners for not even producing the copy of the application, which is said to have been presented on 16.10.2012. As already stated, the attitude of the petitioner is such that he does not deserve any indulgence at the hands of this Court. Hence, this Civil Revision Petition fails and it is accordingly dismissed. No costs.

12.08.2020

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To:-

The Sub-Ordinate Judge,
Dharapuram.



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R.SUBRAMANIAN, J.

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