

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

Coram

The Hon'ble Mr. Justice **C.V.KARTHIKEYAN**

C.R.P.NPD.No.1270 of 2021 &
CMP No.9965 of 2021

1.Abdul Salam
2.Sulthan Abdul Kadar
3.Hameed Nachiyal

... Petitioners/Petitioners 2,3 and
5/Plaintiffs 2,3 and 5

Vs

1. Abdul Latheef
2. Mohameed Jamaludeen
3. Umma Hanima Ammal

... Respondents 1 to 3/Proposed
Parties/LRs of deceased 1st defendant

4. Umma Kolusam Nachiyal
5.Mohamed Jahabar Sadiq Maricar
6.Mohamed Abdul Salam Maricar
7.Badrunissa
8.Noorjahan Nachiyal
9.Hameed Mubarak
10.Mohamed Lukman Maricar
11.Hasina Begam

12

Hasan Fathima nachiyal

13.Mohamed Jamil Maricar

... Respondents 4 to 13/
Respondents 1 to 11/Defendants

14.Shahul Hameed

... 14th Respondent/1st Petitioner/1st
Plaintiff

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the docket order dated 10.11.2020 passed in Unnumbered I.A. Of 2020 in O.S.No.43 of 2014, on the file of the District Judge, Karaikkal.

For Petitioners .. Mr.Premkumar for
M/s.S.Senthil

For Respondent ... No appearance

ORDER

Heard Mr.Prem Kumar, learned counsel for the revision petitioners.

2. A suit has been instituted in O.S.No.43 of 2014 before the District Court at Karaikal for partition and separate possession. Pending the suit, the first defendant died. The plaintiffs were under the obligation to bring on record the legal representatives of the first defendant. The plaintiffs filed such an application, but, in view of the fact that there was extraordinary delay in filing such application, the learned District Judge held that the suit had abated. Thereafter, the plaintiffs filed further application to condone the delay in filing application to bring on record the LRs and to set aside the abatement. It is claimed by the learned counsel for the revision petitioners that even without taking the

application on file, the same had been rejected as not maintainable.

3. It would only be appropriate that the learned District Judge, numbers the application and thereafter passes a judicial order with respect to the delay. Rejecting the application even without numbering it, would cause serious prejudice. I am not entering into any discussion whether the delay had been properly explained.

4. Therefore, the order under revision is set aside with a direction to the District Judge to take the unnumbered I.A. in O.S.No.43 of 2014 on file and then hear the petitioner therein and then pass an order on merits. That would be a more judicious approach rather than rejecting it even without taking on file.

5. This Civil Revision Petition is allowed with the above observations. No order as to costs. Consequently, connected miscellaneous petition is closed.

08.07.2021

Internet: Yes/No

Index: Yes/No

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C.V.KARTHIKEYAN,J.

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To
The District Judge,
Karaikkal.



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