

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.02.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No. 3352 of 2016

and

CMP.No.17116 of 2016

1. Narayanan
2. Venkatesan

... Petitioners

Vs.

Jayalakshmi

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the order and decree dated 07.04.2016 in I.A.No.849 of 2015 in O.S.No.100 of 2013 on the file of the District Munsif Court, Sankarapuram.

For Petitioners : Mr.A.E.Ravichandran

For Respondent : Mr.N.Manokaran

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in I.A.No.849 of 2015 in O.S.No.100 of 2013 dated 07.04.2016 on the file of the District Munsif Court, Sankarapuram, thereby,

dismissing the petition to condone the delay of 223 days in filing the application to set aside the ex-parte decree.

2. The petitioners are the defendants in the suit filed by the respondent herein for partition. The petitioners have entered appearance before the trial Court. Thereafter, there was settlement talks between them, since the respondent is the own sister of the petitioners herein. Thereafter, the respondent also assured that the suit will be withdrawn after settlement. Believing her words, the petitioners did not file any written statement and failed to pursue the suit further. Therefore, the petitioners were set ex-parte and decreed on 04.06.2014. Thereafter, the petitioners came to understand that the suit was decreed the ex-parte as against the petitioners. Immediately, they filed a petition to set aside the ex-parte decree with a delay of 223 days in filing the petition. The Court below dismissed the petition for the reason that the reasons stated in the affidavit filed in support of the condone delay petition are not genuine. The petitioners and the respondent are brothers and sister. Therefore, there was settlement talks between them for settling the issue. As such, the petitioners may be given one more opportunity to defend their suit.

3. In view of the above discussion, this Civil Revision Petition is allowed and the order passed in I.A.No.849 of 2015 in O.S.No.100 of 2013 dated 07.04.2016 is set aside. Consequently, the connected Miscellaneous Petition is closed. No costs.

12.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

kv

To

The District Munsif Court, Sankarapuram.



WEB COPY

G.K.ILANTHIRAIYAN,J.

kv



CRP.NPD.No. 3352 of 2016

WEB COPY

12.02.2021