

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2021

CORAM

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

C.R.P.(NPD) No.882 of 2016

1. Arumugam
2. Thangaraju
3. Amaravathi
4. Periyasamy
5. Chinnusamy
6. Kamala @ Chinnammal
7. Thangammal

... Petitioners

Vs.

1. Selvaraj
2. Guruva Gounder
3. Ellappan

... Respondents

Prayer :- Civil Revision Petitions are filed under Article 227 of the Constitution of India, to set aside the order dated 20.02.2012 made in I.A.No.31 of 2014 in unnumbered AS on the file of the learned Sub Court, Sankari.

For Petitioners : Mr.N.Manokaran

For Respondents

For R1 : Ms.Sathya

For R2 : Notice served

R3 : Died

ORDER

This Civil Revision Petition has been filed as against the fair and decreetal order dated 20.02.2012 passed by the learned Subordinate Judge, Sankari, in I.A.No.31 of 2014 in unnumbered AS, thereby dismissing the petition to condone the delay of 1337 days in representing the appeal suit.

2. The petitioners are the defendants and the respondents are the plaintiffs. The respondents filed suit for declaration and recovery of possession in O.S.No.251 of 2001. Initially, the suit was partly decreed and as against which the petitioners filed appeal suit in A.S.No.17 of 2004. The first appellate Court remanded back the suit for fresh disposal and the suit was decreed in entirety of declaration and recovery of possession. On the strength of the decree, an execution petition was filed in E.P.No. 4 of 2011 in which, delivery was ordered on 19.04.2018 and the delivery was effected. The Execution Court recorded the same and also closed the execution petition on 27.04.2018.

3. In the meantime, the petitioners herein filed appeal suit and the same was returned for corrections. Thereafter the petitioners failed to

represent the same after compliance of the corrections pointed out by the Court below. After the period of 1337 days, they represented the appeal suit with condone delay petition. Since already the delivery was effected and the execution petition itself closed, no purpose would be served if the appeal suit is heard.

4. That apart the reasons stated in the affidavit filed in support of the petition revealed that, after returning the petition, it was mingled with other case papers as such the counsel could not be able to represent the same in time. Whereas the petitioners herein after receipt of the summons in the execution petition in E.P.No.4 of 2011, they appeared through counsel and filed counter and contested the matter. Therefore, they filed affidavit with false averment to condone the delay and the trial Court rightly dismissed the petition. This Court finds no illegality or infirmity in the order passed by the Court below.

5. Accordingly, the Civil Revision Petition stands dismissed. There shall be no order as to costs.

11.03.2021

Index : Yes/No
Speaking order/Non-speaking order
rts

G.K.ILANTHIRAIYAN, J.

rts

To

1. The Subordinate Judge,
Sankari.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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