

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

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

CRP.NPD.No.905 of 2016

and

CMP.No.5013 of 2016

1.Devendiran
2. Ravichandran Petitioners

Vs.

1.Minor.Keerthika
2. Minor.Suman
[Represented by natural guardian Mother Paarvathi]
3. Mathivanan
4. N.Somasundaram
5. K.Palanisamy ... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 20.03.2013 made in I.A.No.1100 of 2011 in O.S.No.33 of 2009 on the file of the Sub Judge, Perundurai, Erode District by allowing this CRP.

For Petitioners

: M/s.Sudha Sekar for
: Mr.S.Lakshmanasamy

For Respondents

: M/s.Zeenath Begum
(for R1 & R2)
: Notice Served (for R3 to R5)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.1100 of 2011 in O.S.No.33 of 2009 dated 20.03.2013 on the file of the learned Sub Judge, Perundurai, Erode District, thereby, dismissing the petition to condone the delay in filing the application to set aside the ex-parte decree.

2. The petitioners are the second and third defendants in the suit filed by the first and second respondents herein for partition. Initially, the suit was filed before the I Additional Sub Judge, Erode in O.S.No.130 of 2005. When the suit was ripe for trial, the said suit was transferred to file on the Sub Judge, Perundurai and re-numbered as O.S.No.33 of 2009. In fact, when the suit was pending on the file of the I Additional Sub Judge, Erode, the petitioners were called absent and they were set ex-parte and the ex-parte decree was passed on 09.03.2006. Thereafter, they filed a petition in I.A.No.43 of 2007 to set aside the ex-parte decree, that too with condone delay petition. However, both petitions were allowed and the ex-parte decree was set aside and opportunity had been given for the petitioners to defend the suit. After transfer of the suit, again the petitioners failed to file

their written statement and they were set ex-parte.

3. It is also curious to note that the petition to condone the delay of 211 days in filing the application to set aside the ex-parte decree, was dismissed on 20.03.2013. After a period of three years, the present Civil Revision Petition filed under Article 227 of the Constitution of India. Though there is no limitation under Article 227 of the Constitution of India, it has to be filed within a reasonable time. It shows that the petitioners have no interest to defend their suit for partition filed by the respondents 1 and 2 herein. Therefore, this Court finds no merits in the present Civil Revision Petition and also finds no irregularity or infirmity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

kv

G.K.ILANTHIRAIYAN,J.

Kv

To

1. The Sub Judge, Perundurai, Erode District.
2. The Section Officer,
V.R.Section, High Court of Madras.



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