

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2021

CORAM

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

CRP.NPD.No.801 of 2018

1. Vasudevan
S/o. Rangasamy Chettiar

2. Mr.A.V.Ravi
S/o. Vasudevan

3. Mr.Saravana Kumar

..Petitioners

Vs.

1. Mrs.Vasumathi

2. Mrs.Malathi

..Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, praying to set aside the fair and decretal order dated 01.07.2017 made in I.A.No.205 of 2015 in A.S.C.F.R.No.19459 of 2015 in O.S.No.505 of 2008 on the file of the Principal District Judge, Coimbatore.

For Petitioner

: Mr.S.Silambanan
for M/s. Kaavya Silambanan

For Respondent

: Mr.R.Siddharth for R1 & R2

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 01.07.2017 made in I.A.No.205 of 2015 in A.S.C.F.R.No.19459 of 2015 in O.S.No.505 of 2008 on the file of the Principal District Judge, Coimbatore, thereby dismissing the petition to condone the delay in filing the appeal suit.

2. The petitioners are the defendants and respondents are the plaintiffs in the suit. The respondents filed a suit for partition. The suit was decreed in favour of the respondents dated 01.08.2012. On the strength of the preliminary decree, the respondents filed a petition for final decree. In its also Advocate Commissioner was appointed. The Advocate Commissioner inspected the property and also filed his report. At this juncture, the petitioner filed an appeal suit with the delay of 379 days.

3. On perusal of the affidavit filed in respect of condone delay petition revealed that there was a misunderstanding with the counsel who appeared in the suit and as such the petitioners engaged new counsel on record to file an appeal. When the petitioners engaged new counsel on

record, they could not get back the case bundles from the previous counsel. Therefore, there was a delay of 379 days in filing the appeal. The petitioners are being the defendants, this Court gives one more opportunity to challenge the appeal suit.

4. In view of the above, the order passed by the Court below in I.A.No.205 of 2015 in A.S.C.F.R.No.19459 of 2015 in O.S.No.505 of 2008 dated 01.07.2017 is set aside. Accordingly, this Civil Revision Petition is allowed on condition that the petitioners are directed to pay a sum of Rs.5000/- (Rupees Five Thousand only) to the respondents directly within a period of two weeks from the date of the order, failing which the order passed by this Court shall stand automatically cancelled. The First Appellate Court is directed to dispose of the appeal suit within a period of six months from the date of numbering the appeal suit. Consequently, connected Miscellaneous Petition is closed. No order as to costs.

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25.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

dh

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G.K.ILANTHIRAIYAN,J.

dh

To
The Principal District Judge,
Coimbatore



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