

Application.No.2919 of 2020
in C.S.No.415 of 2019

R.PONGIAPPAN,J.

This application has been filed by the defendants 1, 2 and 4 in C.S.No.415 of 2019 to condone the delay of 459 days in filing the written statement in Civil Suit No. 415 of 2019.

2. It is the contention raised by the learned counsel for the applicants/defendants that due to COVID 19 pandemic, he was not able to do his normal routine work and for the last 8 months he could not able to approach or identify the person holding the Will of defendants' father. Therefore, he could not able to file his written statement as directed by this Court.

3. Learned counsel for the respondents/plaintiffs has raised his objection that absolutely there was no necessity for late S.Subbachari to execute a Will and in the absence of existence of any alleged Will, the suit schedule properties are to be allotted to each sharer as alleged in the plaint. He further submitted that the sole object of the applicants/defendants is to

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delay the proceedings. Therefore, the prayer sought by the applicants/defendants cannot be granted at this stage.

4. Now, by considering the prayer sought by the applicants/defendants, this application is only to condone the delay in filing the written statement which is no other way relating to the Will executed by late S.Subbachari and the same has to be clarified during the time of trial. During trial, it is necessary to give fair opportunity to the respondents/plaintiffs. Therefore, the reason stated by the learned counsel for the respondents/plaintiffs is not sufficient.

5. Being satisfied with the reasons stated in the affidavit filed in support of the application, this application is allowed and the delay of 459 days in filing the written statement is condoned.

6. Post the main suit on 27.02.2021 for framing issues.

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