

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.03.2021

CORAM

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

CRP (PD) No.1554 of 2017
and CMP.No.7213 of 2017

1.Manonmani
2.Rajendran
3.Jeyabal
4.Jeyachandran
5.Saroja
6.Ravichandran
7.Vijaya
8.Mallika
9.Neelavathi

..Petitioners

Vs.

Balasubramanian

..Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 27.04.2016 made in I.A.No.35 of 2015 in A.S.No.16 of 2008 on the file of the Principal District and Sessions Court, Tiruvarur.

For Petitioners

: Mr.B.Jawahar

For Respondent

: Mr.R.Rajaramani

WEB COPY

ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 27.04.2016 made in I.A.No.35 of 2015 in A.S.No.16 of 2008 on the file of the Principal District and Sessions Court, Tiruvarur, thereby dismissing the petition to condone the delay in filing to restore the appeal.

2. The petitioners are the defendants in the suit filed by the respondent. The respondent filed a suit for partition and the same was decreed by a judgment and decree dated 03.10.2007. Aggrieved by the same, the petitioners preferred an appeal suit. Pending the appeal suit, the sole plaintiff died. Thereafter, the legal heirs of the sole plaintiff was impleaded as a party to the appeal suit. At that juncture, the second petitioner was ill and also suffered with Jaundice and as he is a only person to look after the case, the other petitioners did not have knowledge about the dismissal of the appeal suit for default. Therefore, there was a delay of 869 days in filing the petition to restore the appeal. The suit filed by the respondent for partition was decreed. Therefore, the petitioners may be given an opportunity to pursue their appeal suit on merits and in accordance with law.

3. Accordingly, the order of the trial Court dated 27.04.2016 made in

I.A.No.35 of 2015 in A.S.No.16 of 2008 on the file of the Principal District and Sessions Court, Tiruvarur, is set aside and the Civil Revision Petition is allowed on condition that the petitioners shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) as cost to the respondent within a period of two weeks from the date of receipt of a copy of this order, failing which the order shall stand automatically cancelled. After restoration of the appeal suit, the First Appellate Court is directed to dispose of the appeal suit within a period of three months. No costs. Consequently connected miscellaneous petition is closed.

31.03.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

lpp

To

The Principal District and Sessions Court,
Tiruvarur.

WEB COPY

G.K.ILANTHIRAIYAN.J,

lpp



CRP (PD) No.1554 of 2017
and CMP.No.7213 of 2017

WEB COPY

31.03.2021