



C.R.P.(NPD).NO.909 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2022

C O R A M

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).No.909 of 2022

and

C.M.P.No.4627 of 2022

S.Ravichandran

...Petitioner/Respondent

-V-

1.S.Dinesh Kumar

2.S.Vigneshwar

3.S.Selvam

4.Smt.Sarada Sekar

5.Thulasiammal

...Respondents/Respondents

Prayer: Petition filed under Section 115 of C.P.C, to set aside the order in I.A.No.1 of 2020 in A.S.CFR.10949 of 2020 dated 06.12.2021 on the file of Principal District Judge, Coimbatore.

For Petitioner : Mr.S.Saravanakumar



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ORDER

The 4th defendant in the suit O.S.No.673 of 2012, who is the 4th respondent in the impugned interlocutory application is the revision petitioner before this Court. The facts in brief are as follows:

2. The respondents 1 and 2 had filed the suit O.S.No.673 of 2012 on the file of the Subordinate Judge, Coimbatore seeking a declaration that the partition deed entered into between the defendants under document no.593 of 2009 dated 16.02.2009 is null and void and not binding on them and the suit property and for consequential permanent injunction and also for a relief of partition to divide the suit property into 12 equal shares and allotting 2/12 share to the plaintiffs. The suit came to be dismissed by Judgment and Decree dated 27.02.2018 against which the revision petitioners had filed A.S.C.F.R. No.10949 of 2020 with a delay of 770 days. In order to condone the said delay the respondents 1 and 2 had filed I.A.No.1 of 2020 which is impugned in the instant proceedings.



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3. In the affidavit filed in support of the said petition, the respondents 1 and 2 had stated that they had applied for a copy of the decree and judgment and the same was made ready however after the disposal of the suit their paternal uncle through relatives and mediators had informed that the the issue could be settled among themselves and that they would pay some money to the plaintiffs/respondents 1 and 2 herein and they were specifically asked not to file an appeal and precipitate the matter. Therefore, the plaintiffs had not taken any steps to file an appeal. In fact when the marriage of the 1st respondent was fixed in June 2020, the 4th defendant had agreed to settle the amount but however had not done so. Thereafter, since the payments were not given, the respondents 1 and 2 had met their counsel who took steps to file the appeal, in the interregnum there is a delay of 770 days. The 4th respondent alone had filed his counter contesting the petition and stating that there was no such arrangement for settling the dispute and that it was rather strange that having succeeded before the Trial Court they would seek to have the matter settled.



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4. The Trial Court after considering both the parties had allowed the application on cost. Challenging the same the revision petitioners are before this Court.

5. Heard the learned counsel.

6. One of the reliefs claimed in the suit is for partition. The petitioners in the affidavit filed in support of the condone delay petition have contended that there was a promise to settle the matter as a result of which they had not proceeded to file an appeal which is refuted by the 4th respondent alone. The other respondents have not chosen to contest the said statement. In fact the other respondents have remained absent and have been set ex- parte.

7. The learned Principal District Judge has considered the averments and thereafter, deemed it fit to allow the application. Taking into account the close relations between the parties, the learned judge has given the reasons for condoning the delay in paragraph no.11 of the order where the



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learned Judge had observed that the suit properties were ancestral properties in which the respondents 1 and 2 were staking their claim. In the light of the above discussions and considering the relationship between the parties, I see no reason to revise the order passed by the learned Principal District Judge, Coimbatore. Therefore, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

25.03.2022

Index : Yes/No
Internet: Yes/No
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To
1.The Principal District Judge, Coimbatore.



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P.T. ASHA, J.
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