



C.R.P.No.4678 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2022

CORAM

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

C.R.P.No.4678 of 2017

1. Ramamurthy

2. Seetharaman

.. Petitioners

Vs.

1. Raja Mahendiran

2. Aravumudhan

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of CPC to set aside the order passed in I.A.No.340 of 2017 in O.S.No.285 of 2009 on the file of Principal District Munsif, Cuddalore dated 24.08.2017.

For Petitioners : Ms.S.R.Sumathy

For Respondents : Mr.P.Suresh Babu

ORDER

This Civil Revision Petition has been filed as against the order passed in I.A.No.340 of 2017 in O.S.No.285 of 2009 on the file of Principal District Munsif, Cuddalore dated 24.08.2017, thereby dismissed the petition to condone the delay of 1969 days in filing the petition to set aside the exparte decree.



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2. The petitioners are the defendants in the suit filed by the respondents for partition. The said suit was decreed on 20.07.2011. When the petitioners are the defendants in the suit, they engaged an Advocate and subsequently he fell ill and as such the petitioners had no instructions from their counsel. They did not even enquire about the proceedings of the suit, since it was filed for partition. In fact, the respondents have filed an application for final decree in I.A.No.341 of 2017.

3. Already the petitioners and one Tamizhselvi, who is none other than the purchaser of the suit property filed a suit against the respondents herein, for declaration and permanent injunction for the very same property in O.S.No.265 of 2016. In the said suit, the respondents filed their written statement about the partition suit and the decree dated 20.07.2011 in favour of the respondents herein. Even then, the petitioners herein did not take any steps to set aside the exparte decree. Therefore, the petitioners had knowledge about the exparte decree and in fact they also filed a suit in O.S.No.265 of 2016 and the same was dismissed. After six years without any sufficient reason, the petitioners filed a petition to condone the delay in filing a petition to set aside the exparte decree



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that too after the dismissal of the suit filed by them in O.S.No.265 of 2016.

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4. Therefore, the Court below rightly dismissed the application and this Court finds no infirmity or illegality in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. No costs.

20.12.2022

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

mn

To

The Principal District Munsif, Cuddalore.

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