



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 17.03.2022

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THE HONOURABLE **MR.JUSTICE KRISHNAN RAMASAMY**

C.R.P (NPD) (MD) No.35 of 2018

and

CM.P (MD) No.140 of 2018

1.Karyppayee Ammal

2.Selventhiran

3.Petchiammal

4.Mookan @Andi

... Petitioners/Petitioners/Defendants
3 to 6

Vs.

Thangammal (Died)

Perumal Thevar (Died)

....Respondents 1 and 2/Plaintiffs

Veerathevar (Died)

1.Duraikannan

... Respondent No.1/Respondent No.4
/Defendants 1 and 2

2.Katchammal

.... Respondent No.2/5th Respondent/
Legal Heir of Thangammal

Prayer: Civil Revision Petition is filed under 115 of the Civil Procedure Code praying this Court to set aside the fair and decretal order made in I.A.No.667 of 2017 in O.S.No.281 of 2012, dated 09.11.2017, on the file of Subordinate Court, Theni.

For Petitioner : MrV.P.Rajan
for M/s.B.Jeyakumar

For R 1 and 2 : No appearance

O R D E R

Challenging the order dated 09.11.2017 passed in I.A.No.667 of 2017 in O.S.NO.281 of 2012 by the Subordinate Court, Theni, the present civil revision petition is filed.



2.The revision petitioners are the defendants 3 to 6 in the suit filed by Mrs.P.Thangammal and Mr.P.Perumal Thevar, for partition. The said suit was decreed ex-parte against the revision petitioners/defendants 3 to 6, due to non-appearance before the Court below, in spite of service of summons. The Court below decreed the suit on 05.12.1997. In such circumstances, the revision petitioners have filed an application in I.A.No.281 of 2012 to condone the delay of 7454 days in filing the application to set aside the ex-parte decree. In the said I.A., the only reason assigned to condone the delay in setting aside the ex-parte decree was that the revision petitioners were not in station. The revision petitioners are coolies and due to avocation, they were not in station and hence, they were not aware of the status of the suit. Hence, they prayed to condone the delay of 7454 days. The Subordinate Court, Theni, dismissed the said I.A, on 09.11.2017.

3.On a perusal of the records, it is seen that there is a delay of more than 20 years in filing the condone delay application on the side of the revision petitioners. The Court below disbelieves the reasons assigned by them and the same was not convincing to allow the application to set aside the ex-parte decree in time, that too, in a suit for partition. The Court below adjudicated the share of the parties in accordance with law. If the respondents are entitled, the Court would have adjudicated their entitlements.

4.At any cost, the delay of more than 20 years, which was not explained properly to the satisfaction of the Court below, need not be condoned. The Court below applied its mind and passed the order, which does not warrant any interference from this Court. Hence, I do not find any illegality or irregularity in the order passed by the Court below.

5. In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

1.The Subordinate Judge, Theni.

2.The Record Keeper,Vernacular Section,

Madurai Bench of Madras High Court,Madurai.- 2C

ORDER MADE IN

C.R.P(NPD) (MD)No.35 of 2018

and CM.P(MD)No.140 of 2018

17.03.2022

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