



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

AND

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.M.P. [MD]No.8664 of 2019

in

A.S[MD]SR.No.66426 of 2019

1.Sarojini

2.Vijayasingh

... Petitioners / Appellants

Vs.

1.R.Raguram

2.R.Kandaleela

... Respondents / Plaintiffs

(Respondents are represented through
their Power Agent S.Murugesan)

PRAYER: Petition filed under Article Order 41 Rule 3(A) of C.P.C.,
r/w Section 5 of Limitation Act, praying to condone the delay of 454
days in filing the above appeal suit against the decree and judgment
in O.S.No.72/2015, dated 22.03.2018 on the file of the III
Additional District Judge, Tirunelveli.

For Petitioner : Mr.D.Saravanan

For Respondents : Mr.R.Anand

ORDER

R.SUBRAMANIAN, J.

AND

N.SATHISH KUMAR, J.

The petitioner seeks condonation of delay of 454 days in
filing the appeal against the decree and judgment made in O.S.No.72
of 2015, dated 22.03.2018.

2.The said decree is one for payment of money, which became
due because of the fact that the sale deed executed by the
petitioners was found to be a fraudulent one, as the petitioners did
not have title to the property, which was conveyed under the said
sale deed. It was also found that the petitioners had sold the said
property as early as on 06.02.1986 in favour of the third party.
Despite having sold the property, suppressing the same, they have
sold the same property again to the respondents on 12.02.2014.

3.The reasons assigned for the long delay is that the first
petitioner is aged about 79 years and the second petitioner is aged
about 85 years and misled by certain land grabbing persons. It is
also stated that because of their old age, they could not file the
appeal



4.Mr.R.Anand, learned counsel for the respondents would submit that the reasons given for the delay cannot be considered to be satisfactory reasons, in view of the fact that the very petitioners, who claim that they could not file appeal because of their old age and immobility, had executed a settlement deed in respect of another property, which was attached pending suit in favour of their daughter on 07.12.2020.

5.It shows that the petitioners were vibrant active even on 07.12.2020 at the heights of Pandemic. Hence, we are unable to accept the reasons assigned for the delay. This Civil Miscellaneous Petition, therefore, is dismissed. Consequently, connected A.S[MD] SR.No.66426 of 2019 is dismissed at the SR stage itself.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

Myr

To

The III Additional District Judge,
Tirunelveli.

+1 CC to M/s.D. SARAIVANAN, Advocate (SR-22197[F] dated 28/04/2022)

+1 CC to M/s.P.ANAND, Advocate (SR-22231[F] dated 28/04/2022)

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in

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CK (CO)

GC (30.05.2022) 2P 4C