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C.M.P.No.10683 of 2023
in A.S.SR.No.1515 of 2023

A.D.JAGADISH CHANDIRA, J.

This Miscellaneous Petition has been filed to condone the delay of 1120 days in filing the first appeal against the judgment and decree passed by the Principal District Court, Villupuram, in O.S.No.23 of 2014 dated 14.08.2019.

2. It is the case of the petitioners that they are the legal heirs of one Muthammal, who was the first plaintiff in O.S.No.23 of 2014, on the file of the Principal District Court, Villupuram. The said Muthammal had filed the suit along with her sister Valliammal, seeking for preliminary decree of partition and separate possession of their 2/3rd shares in the suit property and the trial Court had dismissed the suit by judgment and decree dated 14.08.2019. Thereafter, the petitioners' mother had applied for the certified copy of the judgment and decree in O.S.No.23 of 2014 on 24.10.2019 and the copy was made ready on 13.11.2019 and the learned counsel had informed her that the appeal should be filed within 90 days and while, she was taking efforts to mobilize funds, the Courts were closed on account of Covid.

3. Further, the Hon'ble Apex Court has suspended the limitation period from 15.03.2020 to 28.02.2022. Meanwhile, the said Muthammal died on



15.05.2021 and thereby, the petitioners had applied for legal heir certificate from the Government Authorities and they were issued with legal heir certificate only on 09.12.2022. Only after receipt of the legal heir certificate, the present appeal has been filed by the petitioners on 03.01.2023 and thereby, there had been a delay of 1120 days. It is also stated that the delay in filing the appeal is neither wilful nor wanton and was only due to the delay in obtaining the legal heir certificate.

4. Though notice has been served on the respondents both through Court as well as private and even their names have been printed in the cause list, no one has appeared on behalf of the respondents. Thereby, this Court had listed the matter today under the caption "for orders".

5. Learned counsel for the petitioners/appellants submitted that the petitioners are the legal heirs of one Muthammal/1st plaintiff in O.S.No. 23 of 2014. He further submitted that the said Muthammal was the person pursuing the suit, in which, decree was passed on 14.08.2019 and aggrieved over the same, she was taking steps to file the appeal, during which, she passed away on 15.5.2021. And thereafter, the petitioners were able to get legal heir certificate only on 09.12.2022, therefore, the appeal was filed with a delay of 1120 days. Hence, he seeks for condone the delay.



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6. Heard the learned counsel for the petitioners and perused the affidavit filed by the petitioners.

7. Considering the above facts, this Court finds that the reasons adduced in the affidavit filed in support of this petition being satisfactory and the petitioners have shown sufficient cause for the delay in filing the appeal. Hereby, this miscellaneous petition is ordered and the delay of 1120 days in filing the appeal is condoned.

23.08.2023

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Note : Registry is directed to number the main appeal, if it is, otherwise, in order.



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