



C.M.P.No.10995 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

Reserved on 20.02.2023	Pronounced on 02.03.2023
---------------------------	-----------------------------

CORAM

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.M.P.No.10995 of 2022

in

Rev.A.No.sr64617 of 2022

1.A.Shanmugasundaram (Deceased)
2.S.Annapoornam (Deceased)
3.S.Kannagi, D/o.Late A.Shanmugasundaram
4.R.Kalaiselvi, W/o.Late S.Rajendran
5.R.Poornima, D/o.Late S.Rajendran
6.R.Sundar, S/o.Late S.Rajendran
The Petitioners 3 to 6 are residing at
New No.3, Old No.2, 50th Street,
Ashok Nagar, Chennai 600 083.

... Petitioners

Vs.

1.M/s.Trident Promoters Private Ltd.,
Rep. By its Director R.Vasantha
No.24, Unis Ali Sahib Street, Ellis Road,
Chennai 600 002.

2.P.Banumathi
W/o.Late Perumal
No.1, 6th Street, Kasiviswanathar Colony
Chennai 600 033.

... Respondents



C.M.P.No.10995 of 2022

Prayer: Petition filed under Section 5 of Limitation Act, 2005, to condone the delay of 1054 days in filing the review application against the Judgment and Decree dated 16.10.2019 made in S.A.No.1816 of 2001.

For Petitioner : Mr.V.Anthony Elangavan Raj

For Respondents : Mr.E.J.Ayyappan

O R D E R

This Petition has been filed to condone the delay of 1054 days in filing the review application against the Judgment and Decree dated 16.10.2019 made in S.A.No.1816 of 2001.

2.The Defendant in O.S.No.12651 of 1996, preferred SA.No.1816 of 2001, against the Judgment and Decree granted in A.S.No.301 of 2000, dated 29.03.2001 and the same was dismissed on 16.10.2019. Against which the present application to condone delay in preferring the Review application has been filed. It appears that the Plaintiff in the Suit filed an Execution Petition, wherein he has also filed an application under Section 47 of CPC. Thereafter, it appears that he has filed the Review Application with the present condone delay petition.



C.M.P.No.10995 of 2022

WEB COPY

3.Learned counsel for the Petitioner would draw my attention that the original agreement of sale said to have been executed between the parties has been cancelled, as per the admissions of PW1 in the cross examination.

4.Per contra, learned counsel for the Respondent would contend that no such plea has been taken either in the first appeal or in the second Appeal and now new plea cannot be taken in the Review Application that too in a Petition to condone the delay in filing the Review Application.

5.Before the trial Court, the Plaintiff was examined as PW1 and marked Ex.A1 to A.11 and Respondent examined himself as DW1 and has marked Ex.D1 to Ex.D15.

6.A perusal of the reasons assigned by the learned counsel for the Petitioner, for condoning the delay of 1054 days in filing the Review Application and also the typed set, it reveal that one of the Petitioners is suffering from cancer, admittedly, there are five Petitioners. They also participated in the execution proceedings filed in pursuant to the judgment granted on 16.10.2019 and it appears that these Petitioners also filed



C.M.P.No.10995 of 2022

WEB COPY

application under Section 47 of the CPC and the same is pending and hence, I find that the Petitioners/Appellants herein are having sufficient knowledge of passing of the judgment by this Court on 16.10.2019 and they left over the matter and after 1054 days, they preferred this Appeal.

7.Further more they have also participated in the Execution Proceedings by filing objection petition and hence I find that it is only to prevent the Plaintiff from enjoying the decree obtained 25 years ago and hence in the absence of any possible explanation much less sufficient cause being demonstrated, I am not inclined to order this Petition.

8.Accordingly, this Petition dismissed, consequently, Rev.Appl.No.sr64617 of 2022 is rejected. No costs.

02.03.2023

Index : Yes/No
Neutral Citation : Yes/No
Speaking Order/Non-Speaking Order

sai



WEB COPY



C.M.P.No.10995 of 2022

RMT.TEEKAA RAMAN.J,

sai

Pre-delivery Order made in

C.M.P.No.10995 of 2022

in

Rev.A.No.sr64617 of 2022

Dated: 02.03.2023