



A.No.1011 of 2023
in C.S.No.218 of 2021

K.KUMARESH BABU,J.

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This Application has been filed seeking to condone the delay of 393 days in filing the written statement in C.S.No.218 of 2021.

2.Learned counsel for the petitioner would submit that the suit summons was served on the petitioners on 20.07.2021 and 11.08.2021 respectively. He would also submit that they have served the suit documents only on 06.01.2022. He would also refer to the death of their sister, who was also a party to the suit and would claim that as and when the legal heirs of the deceased are brought on record, they thought they would file their written statement jointly, as they share the same interest in the claim to the suit. He would submit that the delay in filing the written statement is neither willful nor wanton. Therefore, he would seek a relief to condone the delay in filing the written statement.

3.Mr.V.Jayakumar, learned counsel appearing on behalf of the respondent/ plaintiff would submit that this is a suit for partition. In spite of summons served on the applicants, they have not chosen to file their written statement in time. The suit is already been relegated to learned Master for recording of evidence. At this stage, the said application is made. He would submit that the applicants are trying to delay the rightful claim of the plaintiff and hence, he would submit that the application should be dismissed in limine.

4.I have considered the averments made by the learned counsel appearing on either side and considering the fact that the suit is for partition



and that the parties to the suit are all close relatives, having being satisfied with the reasons and also taking into consideration the order of the Hon'ble

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Apex Court with regard to the limitation, during the pandemic, this Application is ordered as prayed for. However, the petitioners are directed to pay a cost of Rs.2,500/- (Rupees Two Thousand and Five Hundred only) each payable to the Legal Services Authority, Chennai. On production of proof of such payment, the Registry is directed to take the written statement filed by the applicant on record. The said cost shall be paid within a period of two weeks from today.

24.03.2023

gba

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