



WEB COPY



CRP.No.1311 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.1311 of 2017
and CMP.No.6082 of 2017

1.S.Senthil Kumar
2.A.Mahalingam

... petitioners

Vs.

1.K.M.Nachimuthu Pillai
2.L.Saroja
3.L.Sakthi
4.L.Kumaravel
5.K.Mariammal
6.S.Chandrika

... Respondents

PRAYER:

Civil Revision Petition filed under Section 115 of CPC to set aside the fair and decretal order dated 27.04.2016 made in IA.No.30 of 2015 in AS.No.19 of 2014 on the file of the I Additional District Court, Erode by allowing this civil revision petition.

For Petitioners : Mr.D.Gopal

For Respondents

For R1 : Mr.V.S.Kesavan

ORDER



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This civil revision petition has been filed to set aside the fair and decretal order dated 27.04.2016 made in IA.No.30 of 2015 in AS.No.19 of 2014 on the file of the I Additional District Court, Erode, thereby dismissed the petition to condone the delay in filing the cross appeal.

2. The petitioners are defendants 1 & 2 in the suit filed by the first respondent for specific performance with alternative relief. The said suit was decreed in part, thereby the petitioners and the other defendants are directed to refund the advance amount which was received at the time of agreement for sale. Aggrieved by the same, the first respondent preferred appeal in AS.No.19 of 2014. While pending the appeal suit, the petitioners herein filed cross appeal with delay of 231 days.

3. On perusal of the affidavit filed in support of the condone delay petition, revealed that they failed to state sufficient cause for the delay of 231 days. Admittedly, they also did not file any appeal suit as against the judgment and decree of the trial court. That apart, already the first respondent filed appeal suit and it is pending. Therefore, if no cross appeal is filed by the petitioners, no prejudice would be caused to them. As such, the court below rightly dismissed the



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petition and this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

25.01.2023

Speaking/non-speaking
Index : Yes/No
Internet : Yes
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G.K.ILANTHIRAIYAN, J.

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To
The I Additional District Court,
Erode

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