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CMP.No.25765 of 2023 in AS.SR.No.1698 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2023

CORAM:

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

CMP.No.25765 of 2023 in
AS.SR.No.1698 of 2018

1.Ramathal(died)
2.Valliammal
3.Santhamani
(petitioners 2 & 3 impleaded as appellants
as per order dated 23.09.2021 in CMP.No.5971
of 2020)

... Petitioners

Vs.

1.Palanisamy
Shanmugam(died)
2.Chandrasekar
3.Duraisamy
4.Maruthachalam

... Respondents

PRAYER:

Civil Miscellaneous Petition is filed under Section 5 of Limitation Act to condone the delay of 1797 days in filing the restore petition in CMP.No.17470 of 2018 in AS.SR.No.1698 of 2018.

For Petitioners

: Mr.R.Rajarajan



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ORDER

This Civil Miscellaneous Petition has been filed to condone the delay of 1797 days in filing the restore petition in CMP.No.17470 of 2018 in AS.SR.No.1698 of 2018.

2. Heard, the learned counsel appearing for the petitioners.

3. The petitioners are the appellants. The first petitioner filed appeal suit as against the judgment and decree dated passed in OS.No.466 of 2011 thereby dismissed the suit for partition by the trial court. The appeal suit was filed with delay of 718 days in filing the first appeal. The petition to condone the delay was listed before this Court for hearing on several hearings. However, no one was represented and as such this Court dismissed the petition to condone the delay of 718 days in filing the appeal suit as default. This petition has been filed to restore the condone delay petition, that too with delay of 1797 days in filing the petition to restore the condone delay petition.

4. On perusal of the affidavit filed in support of the condone delay



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petition, revealed that their advocate was not present at the time of hearing of
condone delay petition in CMP.No.17470 of 2018. Therefore, the petitioners
could not get proper instruction from their counsel. However, the reasons
stated in the affidavit are not satisfactory in nature since there is no proper
reason to condone the huge delay of 1797 days. As such, this Court is not
inclined to entertain this petition.

5. Accordingly, this civil miscellaneous petition is dismissed.
Consequently, the connected appeal suit in AS.SRNo.1698 of 2018 is rejected
at the SR stage itself. No costs.

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Index :Yes/No

Internet : Yes/No

Speaking order/non-speaking order
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G.K.ILANTHIRAIYAN, J.

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