



CMP.No.15251 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.12.2023

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CMP.No.15251 of 2017 in
AS.No.683 of 2004

1.Regina Duraisami
2.L.Benidicta
3.L.Chandra

... Petitioners

Vs.

1.A.P.Samidurai
2.C.S.Rukmani
3.Girija Rajan
4.N.Lakshmanan
5.Celin
6.Gnanaprakash Anthony @ Suresh
7.D.Kennady Rajendran
8.Martin Dhanraj
9.D.Nesapriya @ Priya
10.Minor D.Lelo
11.Minor Samson
12.Minor Prasath
(R10 to 12 are minors
rep. By next friend/Mother Celein
13.Rajeshwari
14.J.S.Padmavathi

...Respondents

PRAYER: Civil Miscellaneous Petition is filed under Section 5 of Limitation Act, 1963 to condone the delay of 160 days in filing the petition to set aside the order of dismissal for non prosecution passed by this Court in AS.No.683 of 2004 dated 07.02.2017.



CMP.No.15251 of 2017

For Petitioners	: Mr.N.S.Sivakumar
For Respondents	
R1,2 & 14	: Died
For R3,4 & 13	: Not ready in notice
For R5 to 12	: No appearance

ORDER

This miscellaneous petition has been filed to condone the delay of 160 days in filing the petition to set aside the order of dismissal for non prosecution passed by this Court in AS.No.683 of 2004 dated 07.02.2017.

2. On perusal of the records, revealed that the petitioners are the plaintiffs, who filed suit in respect of the subject property. However, the said suit was dismissed. Aggrieved by the same, the petitioners preferred appeal suit before this Court. On 03.02.2017, the appeal suit was posted for hearing and on that day, there was no representation on behalf of the appellants. Therefore, the matter was ordered to be listed on 07.02.2017 under the caption 'for dismissal'. On that day also, no one was present and as such, this Court dismissed the appeal suit for non prosecution.



CMP.No.15251 of 2017

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3. The learned counsel for the petitioners would submit that on the date of hearing, one of the counsel who appeared on behalf of the appellants elevated to a Judge of this Court. Another counsel's name was wrongly printed. Therefore, no one appeared on that day.

4. On perusal of records, revealed that the initial of the counsel was only wrongly printed and name was correctly printed. That apart, the condone delay petition was filed in the year 2017. For the past six years, the petitioner did not take any steps to list the matter for hearing. The appeal suit is of the year 2004. Therefore, no purpose would be served if the condone delay petition is allowed. Further, on perusal of the reasons stated in the affidavit filed in support of the condone delay petition, they are not sufficient and this Court is not inclined to entertain this petition.

5. Accordingly, this miscellaneous petition is dismissed. There shall be no order as to costs.

05.12.2023

Index : Yes / No

Internet : Yes / No

Speaking order /Non-speaking order

3/5



CMP.No.15251 of 2017

G.K.ILANTHIRAIYAN, J.

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CMP.No.15251 of 2017 in
AS.No.683 of 2004

05.12.2023