



CMP(MD) No.8795 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Civil Appellate Jurisdiction)
Tuesday, the Twelfth day of December Two Thousand and Twenty Three
PRESENT

The Hon`ble Mr.Justice RMT.TEEKAA RAMAN
and
The Hon`ble Mr.Justice P.B. BALAJI

CMP(MD) No.8795 of 2023
in
AS(MD)SR.No.39389 of 2023

1 RADHA

2 RANI

... PETITIONERS/ APPELLANTS

Vs

1 AMIRTHA GOWRI

2 VINAY KARTHIK

3 SOUNDARARAJAN

4 MANGAIYARKARASI

5 CHINNAPAPPAU

6 PRABAKARAN

7 BALACHANDRAN

8 PERIYASAMY

... RESPONDENTS/RESPONDENTS

Civil Miscellaneous petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to condone the delay of 857 days in filing the first appeal against the judgment and decree dated 07-10-2020 in O.S.No.9 of 2015 on the file of Principal District Court, Dindigul before this Honourable Court.



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PRAYER in AS(MD)SR.No.39389 of 2023:

To call for the records and set aside the Judgment and decree dated 07.10.2020 in O.S.No.9 of 2015 on the file of the Principal District Judge, Dindigul and allow this appeal with costs throughout and thereby render justice.

ORDER : This Civil Miscellaneous petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.H.LAKSHMI SHANKAR, Advocate for the petitioner and of Mr.G.GOMATHI SANKAR, Advocate for the respondents 1 & 2 and MR.M.THIRUNAVUKKARASU, Advocate for the 5th respondent and M/s.K.R.SHIVA SHANKARI, Advocate for the 8th respondent and none appeared either in person or through by an advocate on behalf of the Respondents 3,4,6 & 7, the Court made the following order:-

(Order of the Court was made by RMT.TEEKAA RAMAN, J.,)

This Petition is filed seeking to condone the delay of 857 days in filing the first appeal.

2. Heard the learned counsel appearing for the petitioners and the learned respective counsels appearing for the respondents 1,2,5 & 8 and perused the materials placed before this Court.

3. Counter of R8, who is one of the plaintiff before the trial Court, has been filed and it is contended that the delay was not properly explained.

4. After hearing the parties, we find that it is a suit for partition and preliminary decree to an extent of 1/7th share was granted. Plaintiffs are yet to file the final decree proceedings and hence, we are inclined to condone the delay.



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5. Accordingly, this petition is allowed and the delay of 857 days in filing the appeal, is condoned on condition that the petitioners shall pay a sum of Rs.1,500/- (Rupees Thousand Five Hundred only) towards costs to the counsel for the 8th respondent, who filed the counter, failing which, the Petition shall stand automatically dismissed without further reference to this Court.

6. Post the matter on 03.01.2024 for reporting compliance.

sd/-
12/12/2023

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/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AM
TO

THE PRINCIPAL DISTRICT JUDGE,
DINDIGUL.

ORDER
IN
CMP(MD) No.8795 of 2023
in
AS(MD)SR.No.39389 of 2023
Date :12/12/2023

SS/DD/SAR- /14/12/2023/3P/2C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023