



CRP.No.1732 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

CRP.No.1732 of 2021
and
CMP.No.13470 of 2021

1.Kannaiah Mandadi
2.K.Renuka
3.K.Kanniammal

... Petitioners

Vs.

1.Jayaram Mandadi
2.Subramania Mandadi
3.Suresh
4.Mangamma

...Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, to allow the Revision Petition by setting aside the fair and decreetal order passed in I.A.No.620 of 2018 in OS.No.136 of 2008 dated 23.12.2020 by the District Munsif Court, Tiruttani.

For Petitioners : Mr.A.Lakshmi Narasimhan
For Respondents : Mr.S.Kaithaimalai Kumaran
for R1, R2 & R4
R3-Died



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ORDER

This Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners to condone delay of filing petition to set aside the exparte preliminary decree in the suit for partition filed by the respondents.

2. In the affidavit filed in support of the condone delay petition, it was stated by the petitioners that exparte decree was passed against the petitioners on 08.07.2010 for their failure to file the written statement. It was further stated that after receiving suit summons, he engaged one Advocate and since he had become a Member of Legislative Assembly, the petitioners could not contact him and follow the case. The Court below while dismissing the condone delay petition observed that it was the duty of the petitioners to follow the case and therefore, the reason assigned by the petitioners for explaining huge delay of 3078 days was not acceptable. It was also further stated by the Court below that, in order to condone delay, the petitioners have not let in any oral or documentary evidence and therefore, the huge delay of



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3078 days cannot be condoned. Hence, there is no acceptable evidence, either oral or documentary, available on record to condone the delay. The condonation of delay is not automatic. The party seeking condonation of delay has to establish 'sufficient cause' within the meaning of Section 5 of Limitation Act. The petitioners, who failed to follow the case for long period of 3078 days, cannot seek condonation of delay without plausible explanation. Hence, I do not find any reason to interfere with the conclusion by the Court below and accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

19.01.2024

Index : Yes / No
Internet : Yes / No
dna

To

The District Munsif Court, Tiruttani.



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S.SOUNTHAR, J.

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