



CMP.No.6054 of 2024
in
OSA.SR.No.27185 of 2024

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R. MAHADEVAN, J.

AND

MOHAMMED SHAFFIQ, J.

(Order of the court was made by R.MAHADEVAN, J.)

This petition is filed by the petitioners / appellants seeking to condone the delay of 196 days in filing the above Original Side Appeal.

2.Mr.A.Thiagarajan, learned senior counsel appearing for the petitioners / appellants submitted that the delay may be condoned and the main appeal be decided purely on merits.

3.Mr.K.V.Babu, learned counsel appearing for the first respondent raised objection for allowing this petition and filed a detailed counter affidavit, wherein it is *inter alia* stated as follows:

"9. I further submit that subsequent thereto, the A.R (OS) of Hon'ble High Court of Judicature at Madras on behalf of the Judgment Debtors executed the sale Deed on 26.03.2024 and the same was duly registered as Document No.447 of 2024 in the office of the Joint - I Sub Registrar, Central Chennai. Thus, the above narration of the entire events which has taken place from the date of filing the suit to till the date of execution of the Sale deed, would make it abundantly very clear that the present C.M.P. instituted by the appellants herein is yet another ploy to delay the ends of justice.

10. I am further advised to submit that the entire Decree having been satisfied after the Execution Petition in E.P.No.50 of 2023, where the learned Master was pleased to direct the A.R.(OS) to execute the sale deed and thereafter when the Sale Deed was executed and registered as afore said. Thus, nothing survives in the present C.M.P. before this Hon'ble Court. The appellants herein having participated in the E.P. after served with the



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E.P., allowed the balance sale consideration to be deposited, having participated in the E.P., consenting to execute and register the sale deed in favour of this respondent, it may not be appropriate on the part of the appellants herein at this length in time to agitate the entire issue by filing the present Intra Court Appeal with a delay of 196 days in filing. In fact, the various reasons set forth in the affidavit for the delay in filing the appeal are all cooked up for the purpose of delaying the ends of justice. In fact, after the Sale Deed having been executed as per the directions of the learned Master on 26.03.2024, there is nothing more to the appellants to agitate before the Hon'ble Court, except to file appropriate application for withdrawal of their share of amount from and out of the balance sale consideration deposited in the Registry of this Hon'ble Court. Having participated in the E.P. for several hearings, it may not be appropriate on the part of the appellants to file the present appeal. "

Stating so, the learned counsel sought to dismiss this miscellaneous petition.

4. Mr.E.C.Ramesh, learned counsel appearing for the respondents 2 and 3 submitted that the original value of the property is around Rs.20 crores and during the pendency of the E.P proceedings, an attempt was made to register the property only for a sum of Rs.5 crores.

5. This court is of the view that the submissions made by the learned counsel appearing for all the parties, will be considered while dealing with the main appeal. Therefore, the delay is condoned and this petition is ordered accordingly.

[R.M.D., J.] [M.S.Q., J.]
29.04.2024

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Note : Registry is directed to number the appeal, if it is otherwise in order.

R. MAHADEVAN, J.



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