



CRP.No.802 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM

THE HON'BLE MR. JUSTICE **P.B.BALAJI**

CRP.No.802 of 2023  
and C.M.P.No.6119 of 2023

1.Salavudeen  
2.Dhoulat Begam

..Petitioners

Vs.

1.Jahabar Ali  
2.Minor Jafina

..Respondents

**Prayer:** Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 31.01.2023 made in I.A.No.3 of 2022 in O.S.No.13 of 2014 on the file of the Additional District Judge, Mayiladuthurai.

For Petitioners : Mr.N.A.Nassir Hussain

For Respondents

For R1 : Mr.K.P.P.Rajarajachozhan

For R2 : Minor rep by R1

### **ORDER**

This Civil Revision Petition has been filed against the fair and decreetal order dated 31.01.2023 made in I.A.No.3 of 2022 in O.S.No.13 of 2014 on the file of the Additional District Judge, Mayiladuthurai.



CRP.No.802 of 2023

WEB COPY

2.I have heard Mr.N.A.Nassir Hussain, learned counsel for the revision petitioners and Mr.K.P.P.Rajarajachozhan, learned counsel for the first respondent.

3.The application seeking condonation of delay of 857 days in setting aside the exparte decree dated 19.06.2019 has been dismissed by the Trial Court. Aggrieved by the said order, the defendants 1 and 2 are before this Court.

4.The learned counsel for the revision petitioners would submit that the suit is one for partition and therefore, substantial rights of the parties are to be adjudicated in the suit and on technical consideration of delay, an opportunity should not be denied to the defendants 1 and 2.

5.Per contra, the learned counsel for the respondents/plaintiffs would submit that the defendants have been enjoying the suit property for the past several years and now, at the belated stage, it is not open to them to seek for condonation of delay. Further, even according to the respondents, the suit for partition itself is not maintainable and therefore, the Trial Court has rightly



dismissed the application finding that the reasons assigned for seeking condonation of delay are not acceptable. He would therefore pray for dismissal of the revision petition.

6.I have carefully considered the submissions advanced by the learned counsel on either side. I have gone through the affidavit filed in support of the application for condonation of delay.

7.The reasons assigned by the revision petitioners appear to be acceptable on the face of the record. Moreover, considering that it is a suit for partition and admittedly, the revision petitioners are in possession, it would be even in the interest of the respondents/defendants also if the suit is disposed of on merits, after affording an opportunity to all the parties.

8.Considering that the exparte decree has been passed way back in 2019, in the interest of justice and to ensure that there is a fair opportunity afforded to the defendants to contest the suit, the revision petitioner may be given an opportunity to defend the suit on merits. However, considering the pendency of the civil revision petition for the past two years and the suit also having been decreed in 2019, I direct the Trial Court to dispose of the suit, after full fledged



CRP.No.802 of 2023

trial, on or before 31.03.2025. The parties shall extend their fullest co-operation for speedy disposal of the suit, as indicated above.

9.In fine, the Civil Revision Petition is allowed. There shall be no order as to costs. Connected Civil Miscellaneous Petition is closed.

21.11.2024

Speaking/Non-speaking order  
Index : Yes/No  
ata

To

The Additional District Judge, Mayiladuthurai.



WEB COPY



CRP.No.802 of 2023

**P.B.BALAJI.J.**

ata

CRP.No.802 of 2023  
and C.M.P.No.6119 of 2023

21.11.2024