



C.M.P.No.15749 of 2024
in O.S.A.SR.No.39328 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

C.M.P.No.15749 of 2024

in

O.S.A.SR.No.39328 of 2024

C.P.Kothandapani (deceased)

1.C.K.Mahalakshmi
2.C.K.Palaniselvam
3.Gayathri

... Petitioners

Vs.

1.C.P.Venugopal
2.C.P.Chandrasekaran
3.C.P.Srinivasan

... Respondents

*[Cause title accepted vide order of Court dated
08.07.2024 made in C.M.P.No.10163 of 2024
in O.S.A.SR.No.39328 of 2024]*

Prayer in C.M.P.No.15749 of 2024 : Civil Miscellaneous Petition filed under Order 14 Rule 8 of Original Side Rules r/w. Section 5 of the Limitation Act to condone the delay of 405 days in preferring the Original Side Appeal in O.S.A.SR.No.39328 of 2024.



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Prayer in O.S.A.SR.No.39328 of 2024 : Original Side Appeal filed under Order XXXVI Rule 11 of Original Side Rules r/w. Clause 15 of the Letters Patent against the judgment and decree dated 11.01.2023 in C.S.No.976 of 2015 on the file of this Court.

For Petitioners : Mr.A.Palaniappan

For Respondents : Mr.T.Srikanth

ORDER

(Order of the Court was made by **S.S. SUNDAR, J.**)

This Civil Miscellaneous Petition is filed to condone the delay of 405 days in preferring the above Original Side Appeal.

2.Learned counsel for the respondents has strong objections for condoning the delay. He refers to the contentions raised by the petitioners in the suit for partition. Having admitted the plaintiffs' share in the property, a stand is taken by the petitioners that one of the defendants has not contributed for the property. It is now represented that the Appeal is filed by the legal heirs of the contesting defendant and the Appeal was filed when the contesting defendant by name C.P.Kothandapani was in his death bed. It is



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the contention of the learned counsel for the respondents that the Appeal itself is an afterthought and the contesting defendant, namely the father of the present appellants, had not filed any Appeal and he also participated in the final decree proceedings admitting the rights of the respondents.

3.Merits of the case can be decided only at the time of hearing the Appeal. This Court cannot decide those issues in an application filed for condonation of delay. Assuming that the Appeal is devoid of any merits, the only question we need to consider in this application is whether the delay has been satisfactorily explained. Since we are convinced that the petitioners have given sufficient reasons for the delay, the delay is condoned and this petition is ordered, however, on payment on a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondents, within a period of two weeks from the date of receipt of a copy of this order.

(S.S.S.R., J.) (P.D.B., J.)
21.11.2024

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S.S. SUNDAR, J.
and



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Internet : Yes

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