



A.No.2278 of 2024

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A.No.2278 of 2024
in C.S.No.144 of 2022

C.V.KARTHIKEYAN, J.

This application has been filed by the 1st defendant in the suit seeking to condone the delay of 560 days in filing the written statement.

2. In the affidavit filed in support of the application, it had been stated that an application had been filed to reject the plaint and that was dismissed, but a decision was not taken whether to file an appeal or not. It is also stated that finally, they had taken a decision not to file an appeal. Thereafter, they had proceeded with filing of the written statement and in the said process, there has been a delay of 560 days.

3. A counter affidavit has been filed in which the plaintiff had stated that the suit has been filed seeking possession of the suit schedule property. It is contended that the plaintiff purchased the property, but the defendants have not vacated and handed over the possession. It is also contended that the defendants are deliberately protracting proceedings in the suit. It is also stated that there is no bonafide in the application and that the application should be dismissed.

4. I have heard the arguments advanced by both the learned counsels.

5. It is a fact that the plaintiff had purchased the property and that the



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defendants have not vacated from the property. The plaintiff seeks possession of the property for which they have paid consideration. It is under those circumstances that the suit has been filed. Even if an application seeking to reject the plaint had been filed, there is an onus cast on the defendants to file their written statement. The reason advanced is that they had not decided immediately whether to file appeal against the order dismissing the application seeking to reject the plaint. It is seen that the plaintiff had, because of this delay, suffered for nearly 2 years and trial had also stopped and no further proceedings could be initiated in the suit. In view of that particular fact, though the written statement is taken on record, I would impose cost of Rs.50,000/- on the applicant/1st defendant to be paid directly to the 1st respondent/plaintiff. The cost to be paid on or before 06.08.2024.

6. With the above direction, this application stands allowed. List the matter for reporting compliance on 07.08.2024.

27.06.2024

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