



WEB COPY



Application No. 3209 of 2024
in C.S. No. 251 of 2022

Application No. 3209 of 2024
in
C.S. No. 251 of 2022

C.V.KARTHIKEYAN, J.

The application has been filed seeking to condone the delay of 117 days in filing the application to set aside exparte preliminary judgment and decree dated 10.11.2023.

2. The applicants are defendants in the suit.

3. The suit had been filed by a sister against the legal representatives of her brother seeking partition and separate possession of the suit schedule property into 2 equal part and allot 1 share to the plaintiff. Since the defendants had not appeared before the Court, a learned Single Judge of this Court had set the defendants exparte. A preliminary decree had been passed on 10.11.2023.

4. By this application, the defendants seek to condone the delay of 117 days in filing the application to set aside exparte decree dated 10.11.2023.

5. Let me limit myself to the reasons stated in this application to condone the delay. In the affidavit, it had been stated that the first



**Application No. 3209 of 2024
in C.S. No. 251 of 2022**

WEB COPY

defendant had lost her husband and her father-in-law and her mother-in-law within a period of 5 days, and the second defendant and the third defendants were having their Board Examinations, and she was under depression and she was not able to attend to any other issue. Further it had been stated that she also suffering from Cervical Spine issues, Eye sight issues and had also undergone a small surgery in mouth and underwent treatment for psychology issue. Therefore, she was not able to communicate with the counsel for preparing the written statement.

6. A counter affidavit had been filed, wherein, there is no answer given to the reasons stated particularly, about the death of the family members of the applicant and about the medical condition of the applicant.

7. In view of the particular fact, the delay is condoned. The petition stands allowed.

8. Registry is directed to number the consequent applications and list in the 1st week of August, 2024.

23.07.2024

Maya



WEB COPY



Application No. 3209 of 2024
in C.S. No. 251 of 2022

C.V.KARTHIKEYAN,J.

Maya

Application No. 3209 of 2024
in
C.S. No. 251 of 2022

23.07.2024