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C.R.P.No.2042 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 24.07.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P.No.2042 of 2020

1.Karthick Vino
2.Hemarega Vino

... Petitioners

Versus

1.Vinoba
2.Abishek Vino
3.Pramala
4.Sivakumar Pazhani

..Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Code of Civil Procedure, to set aside the order and decreetal order dated 19.02.2020 made in I.A.No.245 of 2019 in O.S.No.146 of 2013 on the file of the Court of the Additional Sub-Ordinate Judge, Tindivanam.

For Petitioner :Mr.T.Dhanasekaran

For Respondent 1 to 3 : No appearance



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ORDER

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This Civil Revision Petition has been filed against the order dated 19.02.2020 in I.A.No.254 of 2019 in O.S.No.146 of 2013 on the file of the Court of the Additional Sub-Ordinate Judge, Tindivanam.

2. The petitioners are the plaintiffs and the respondents are defendants in a suit in O.S.No.146 of 2013 which was filed for partition. The suit was dismissed for default on 09.08.2017. The petitioners filed an application in I.A.No.254 of 2019 under Section 151 of Code of Civil Procedure and Section 5 of Limitation Act to condone the delay of 544 days in filing a petition to restore the suit which was dismissed for default on 09.08.2017. After hearing both sides, the Trial Court has dismissed the petition holding that the delay of 544 days was not properly explained and without any justification, such delay cannot be condoned. Aggrieved by the said order, the present Civil Revision Petition has been filed.

3. The learned counsel for the petitioners submitted that due to ill health



of the 1st petitioner and their counsel also had fallen ill, the petitioners were not able to follow up the case. The learned counsel contends that since the petitioners have a good case to put forth before the Court, one opportunity has to be provided to them to contest the case on merits.

4. On perusal of the records, it appears that the suit was filed by two persons and there are some other cases also pending between the same parties. Accordingly, the Trial Court came to the conclusion that as there are two petitioners, so even if one forgets to follow up the case, the another must have done so and secondly, when there are other cases also pending between the parties, then it should have been impossible to not follow up this case for more than 1 ½ years .

5. On perusal of the same, this Court accepts the reasoning given by the Trial Court for dismissing the petition. This Court also is of the opinion that seeking to condone the huge delay of 544 days, the petitioners failed to show any sufficient cause to condone such huge delay. It is settled law that petitioners in a delay condonation petition have to show sufficient cause for the



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delay. In the present case, the petitioners failed to show sufficient cause to condone the delay of 544 days. As such, in our considered view, there is no infirmity or illegality in the order passed by the Trial Court dismissing the condone delay petition and as such, no interference is required in the Civil Revision Petition.

6. Accordingly, the Civil Revision Petition is dismissed. No costs.

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Index:Yes/No.

Internet:Yes/No.

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To

The Additional Sub-Ordinate Judge, Tindivanam.



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BATTU DEVANAND.J.,

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