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C.M.P.No.22540 of 2024
in O.S.A.SR.No.28923 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM :

THE HONOURABLE MR. JUSTICE S.S. SUNDAR

AND

THE HONOURABLE MR. JUSTICE P. DHANABAL

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in
O.S.A.SR.No.28923 of 2024

Dilli Bai (since deceased)

1.Premavathi

2.Jamuna Ravi

3.Chitra

4.Maheswari

5.K.Balachander

... Petitioners

Vs.

Raja @ Rajendran

... Respondent

*[Cause title accepted vide order of Court dated
05.08.2024 made in C.M.P.No.15766 of 2024
in O.S.A.SR.No.28923 of 2024]*

Prayer in C.M.P.No.22540 of 2024 : Civil Miscellaneous Petition filed
under Order XIV Rule 8 of the Original Side Rules of Madras High Court



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read with Section 5 of the Limitation Act to condone the delay of 5144 days in filing the Original Side Appeal in O.S.A.SR.No.28923 of 2024.

Prayer in O.S.A.SR.No.28923 of 2024 : Original Side Appeal filed under Order XXXVI Rule 1 of Original Side Rules r/w. Clause 15 of Letters Patent against the judgment and decree dated 08.09.2009 in T.O.S.No.26 of 2004 on the file of this Court.

For Petitioners : Mr.M.Velmurugan
for M/s.J.Eva Rosalin Santhakumari

ORDER

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

This Civil Miscellaneous Petition is filed to condone the delay of 5144 days in filing the above Original Side Appeal as against the judgment and decree made by the learned Single Judge in T.O.S.No.26 of 2004 dated 08.09.2009.

2.The parties are relatives. The respondent is the son of one Kathirvelu Achari and the petitioners 1 to 4 are daughters and 5th petitioner is the son of Kathirvelu Achari. After the death of Kathirvelu Achari in



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2002, the Will alleged to have been executed by the deceased Kathirvelu Achari became the subject matter of T.O.S.No.26 of 2004. The respondent filed the Original Petition as an Executor of the Will. The petitioners herein are the respondents in the proceedings. The 1st petitioner was examined as D.W.1 in the said proceedings.

3.Now, the present appeal is filed nearly 14 years after the judgment in the testamentary proceedings. In the affidavit filed in support of this petition, the petitioners have not given valid reasons for the inordinate delay of 14 years. In the affidavit filed by one of the petitioners namely Chitra, it is stated that her counsel had not intimated regarding filing of a regular appeal against the judgment in T.O.S.No.26 of 2004. It is further stated that the respondent had approached her and forced her to put her signature in the release deed. It is further stated that, after getting the release deed, she came to know that an order had been passed against the petitioners and that by virtue of the order passed by this Court which is impugned in the above Appeal, the respondent had made an attempt to get her signature for registering the release deed.



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4.The petitioners have come with a story which cannot be accepted by anyone. Despite the fact that the delay is more than 14 years, a casual explanation has been offered by the petitioners, ignoring the serious legal implications of entertaining this application. The delay of 5144 days, which is beyond 14 years, cannot be condoned unless there are very strong reasons and explanation for such a long delay. The only reason given is that the petitioners came to know about the adverse order in T.O.S.No.26 of 2004 only when the respondent tried to get a document registered, which is nothing but false which can never be an explanation for such a long delay. The petitioners have not even disclosed the date on which they came to know about the judgment in T.O.S.No.26 of 2004. Therefore, the *bona fides* of the petitioners is doubtful and this Court is not inclined to exercise its discretion in favour of the petitioners for condoning such a long delay.



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5. Accordingly, this Civil Miscellaneous Petition is dismissed.

Consequently, O.S.A.SR.No.28923 of 2024 is rejected.

(S.S.S.R., J.) (P.D.B., J.)
04.11.2024

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Internet : Yes



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