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CRP.No.5017 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.No.5017 of 2024

- 1.Sarasu
- 2.Sivappan
- 3.B.Devaraj
- 4.N.Jagalingam
- 5.N.Pasupathy
- 6.Rupamani
- 7.G.Ganesan
- 8.Neelavathi

.. Petitioners

Versus

Parvathi ammal (Deceased)

- 1.Neeli ammal
- 2.Lakshmi ammal
- Nanjan
- 3.Saroja
- 4.M.B.Viswanathan
- 5.M.B.Devaraj
- 6.M.B.Prabhu Mani
- 7.Rajammal
- 8.D.Satheesh Kumar
- 9.D.Arun Prakash

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside order dated 06.06.2024 passed by the District Court of the Nilgris at Udhagamandalam in I.A.No.1 of 2019 in A.S.C.F.R.No.1944 of 2019.



CRP.No.5017 of 2024

For Petitioner : Mr.B.Abhineshababu

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ORDER

Challenging the order dismissing the application to condone the delay of 220 days in the appeal, the present revision has been filed.

2. The application has been taken out by the revision petitioners to condone the delay of 220 days in filing the appeal. It is the case of the revision petitioners that they are effectively defending the suit and are in exclusive possession and enjoyment of the properties. There was an oral partition of the suit property during the year 1987 and they are in exclusive possession of the suit properties. The 2nd and 3rd respondents sold their partitioned portion to the third parties. One of the suit properties was sold to the first respondent/plaintiff namely Parvathi Ammal's daughter namely Akkamma Devi. The petitioner was occupied in Salem in connection with his official duties and hence, due to busy official commitments, the petitioner could not come to Nilgris for engaging an advocate to defend the final decree proceedings. Only during the second week of January, 2019, he came to know about the final decree proceedings and immediately applied for certified copies of the decree and order. Hence, the delay.



CRP.No.5017 of 2024

WEB COPY

3. The said application has been opposed by the respondents on the ground that the application is yet another attempt on the part of the revision petitioner to drag on the proceedings and no reasons have been assigned properly. Further, application was filed in the year 2006 to set aside the exparte decree dated 26.04.1977 after 29 years of delay which was also dismissed by the Court. The revision petitioners refused to take notice and never appeared before the Court. Even in the year 1980, the revision petitioners have filed an application to set aside the exparte order which was dismissed for default. After 46 years of filing the suit, the revision petitioners have come up with the petition to just harass the respondents. The Trial Court taking note of the various circumstances, particularly, the manner in which the suit has been dragged from the year 1975 had dismissed the application. Hence, this petition.

4. The learned counsel for the revision petitioners submitted that the delay is only of 220 days in filing the appeal. The respondent has filed the application for final decree only in the year 2014, wherein, the preliminary decree was passed in the year 1975, hence, the delay cannot be attributed



CRP.No.5017 of 2024

WEB COPY

to the revision petitioners. Further, the petitioners are in exclusive possession of the property. Hence, seeks for allowing this petition.

5. Heard the learned counsel for the petitioner and perused the materials placed on record.

6. The petitioners, who are the respondents 3 and 4 and legal heirs of the deceased 5th respondent in the final decree proceedings have filed the application seeking to condone the delay of 220 days in filing the appeal as against the final decree. Though the delay appears to be only 220 days in filing the appeal, the length of the delay is insignificant and only the conduct of the parties assumes significance. When the delay has been purposively made only in order to stall the final proceedings altogether, this Court is of the view that even one delay cannot be condoned as a matter of right. Though it is stated by the petitioner that he had come to know about the final decree only during the second week of January, 2019, except for stating that no convincing reasons whatsoever have been given or explained to condone each days delays. It is relevant to extract the nature of the petitions filed in this regard, from the year 1975.



CRP.No.5017 of 2024

Sl.No.	Nature of proceedings	Date of filing/disposal	Time gap between previous and next event
O.S.No.181 1975	of Suit for partition	Filed on 18.08.1975	-
O.S.No.181 1975	of Date on which the appellants were set exparte	20.11.1976	-
O.S.No.181 1975	of Date on which the exparte decree was set aside	04.02.1977	77 days
O.S.No.181 1975	of Date of preliminary decree	24.06.1977	141 days
I.A.No.179 2006 in O.S.No.181 1975	of Partition to set aside the exparte decree by the appellants with the delay of 29 years	Filed on 10.02.2005	10094 days
I.A.No.179 2006 in O.S.No.181 1975	of Dismissal of the set aside application	20.03.2006	404 days
I.A.No.620 2014 in O.S.No.181 1975	of Date of filing of final decree application	17.11.2014	3134 Days
I.A.No.620 2014 in O.S.No.181 1975	of Date on which appellants have been served	1 st Appellant and 2 nd appellant on 23.11.2015, 3 rd appellant on 28.01.2015 and	-



CRP.No.5017 of 2024

Sl.No.	Nature of proceedings	Date of filing/disposal	Time gap between previous and next event
		4 th appellant refused to receive notice and service held sufficient on 05.04.2014	
I.A.No.620 of 2014 in O.S.No.181 of 1975	Date on which appellants have been set exparte	1 st Appellant and 2 nd appellant on 23.11.2015, 3 rd appellant on 28.01.2015 and 4 th appellant on 05.04.2017	-
I.A.No.620 of 2014 in O.S.No.181 of 1975	Date on which final decree was passed	16.08.2018	998 days
A.S.C.F.R.No.19 44 of 2019	Date on which appeal is presented with the delay	10.07.2019	329 days

7. The above facts clearly show how casually litigations have been dragged for more than 40 years. If the attitude of the parties are condoned and the applications are allowed casually, the very faith of the people in the system will be eroded.



CRP.No.5017 of 2024

WEB COPY

8. Considering, the entire facts, this Court is of the view that the Trial Court is right in dismissing the application at the threshold as there was no explanation whatsoever convincingly placed before the Court. This Court also do not find any satisfactory explanations to condone the delay.

9. Accordingly, this revision petition stands dismissed. No costs.

09.12.2024

dhk

Index : Yes/No

Internet : Yes/No

To

The District Judge
District Court, Udthagamandalam



WEB COPY



CRP.No.5017 of 2024

N.SATHISH KUMAR, J.,

dhk

C.R.P.No.5017 of 2024

09.12.2024