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C.R.P.[NPD].No.4476 of 2024

THE HIGH COURT OF JUDICATURE AT MADRAS

Date : 08.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

C.R.P.[NPD].No.4476 of 2024

Venkammal [died]

1. Kalidoss

2. Suguna

. . . Petitioner

Versus

R.Kasthuri

. . . Respondent

PRAYER : Petition filed under Article 227 of Constitution of India to set aside the fair and decreetal dated 08.07.2024 passed in I.A.No.2 of 2021 in O.S.No.116 of 2013 on the file of the Sub Court, Madurantagam.

For petitioner : Mr.K.Govi Ganesan

ORDER

Challenging the Order of the dismissal of the of the application filed to condone the delay of 1037 days in a filing a petition to set aside the exparte decree, the present Civil Revision has been filed.



2. The main suit has been filed for partition. It is the case of the petitioners that the petitioners engaged a counsel. As the parties approached the panchayat and the respondents agreed to withdraw the suit, the petitioners did not pursue their suit. Further the first petitioner is also not well and hence they have not filed the written statement. Therefore, an exparte decree was passed on 09.12.2014. Only in the final decree proceedings, the petitioners came to know about the exparte decree. Hence, there is a delay of 1037 days in filing an application to set the exparte decree.

3. The first petitioner was examined as P.W.1 to substantiate their claim and he was also cross examined and the trial Court considering the entire evidence has come to the conclusion that the reasons assigned by the petitioner is not satisfactory and the reasons have been invented for the purpose of filing the application to condone the delay. The evidence of the petitioner itself indicate that the alleged panchayat pleaded by him has not been established. Therefore, when the delay has not been properly explained and reasons have been assigned only for the purpose of the case, this Court is of the view that the liberal approach cannot be granted, particularly, in a partition suit.

4. The exparte decree has been passed in the year 2014 and almost 10 years



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is over. The petitioner wants to unsettle the decree with false allegations. Normally sufficient cause has to be given liberal interpretation to advance substantial justice.

At the same time, the reasons assigned must be true and convince the conscience of the Court. On a perusal of the materials on record, this Court is of the view, the trial Court has in fact appreciated the evidence adduced in this regard and came to the conclusion that the delay is not properly explained. Hence, I do not find any merits in this revision.

5. Accordingly, this Civil Revision Petition is dismissed.

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Index : Yes / No

Internet: Yes

Speaking/non speaking order

VRC



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N. SATHISH KUMAR, J.

VTC

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