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C.R.P.[NPD].No.4354 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2024

CORAM

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

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- 1.Rani
- 2.Saravanan
- 3.Mari
- 4.Sivalingam
- 5.Lakshmi
- 6.Rajappan
- 7.Sithiammal
- 8.Lingammal
- 9.Mani
- 10.Rathinam

.. Petitioners

Vs.

- 1.A.Subramani
- 2.C.Sangu
- 3.G.Palani
- 4.V.Rajendran
- 5.The Tahsildar,
Pochampalli Taluk,
Krishnagiri District.

- 6.The Sub-Registrar,
Pochampalli Sub-Registrar Office,
Pochampatti Taluk,
Krishnagiri District.

.. Respondents



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Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order dated 01.04.2016 in I.A.No.183 of 2015, in O.S.No.91 of 2012 on the file of the Principal District Judge, Krishnagiri.

For Petitioners : Mr.R.Ramesh
For R1 to R4 : Mr.G.Punniakoti
For R5 & R6 : Mr.P.Gurunathan
Additional Government Pleader

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order dated 01.04.2016 in I.A.No.183 of 2015 in O.S.No.91 of 2012 on the file of the Principal District Judge, Krishnagiri.

2.The suit has been originally filed by the respondents 1 to 4/plaintiffs seeking to declare their title over the suit property and for permanent injunction. The suit came to be decreed ex-parte on 30.09.2013. Therefore, the petitioners/defendants filed an application in I.A.No.183 of 2015, seeking to set aside the ex-parte decree on the ground that the suit was kept pending for sometime since FIR came to be filed at the instance of



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the 1st respondent against the petitioners for the offences punishable under Sections 420, 465, 467, 468 and 471 IPC and the revision petitioner, namely, Saravanan has been arrested and he was in jail for three months and he has also suffered from Jaundice. Therefore, the delay had occurred.

3.The said application was opposed by the respondents on the ground that the reason has not been properly explained for condonation of delay. The petitioner examined as P.W.1 and marked Exs.P1 to P27. The trial Court holding that the delay has not been properly explained and record has not been produced to support the plea of the petitioners, dismissed the application.

4.The learned counsel for the petitioners submitted that as far as the delay is concerned, it has been properly explained, but the trial Court has not considered the same.

5.The learned counsel for the respondents would submit that the delay has not been explained properly. Further he would submit that in addition



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application may be allowed. The suit has been filed seeking declaration to declare that the sale deed executed is in favour of the revision petitioner is null and void. Since the rights of the parties are involved, the litigation should reach finality only on the basis of the proper adjudication. Though the delay appears to be huge, the fact remains that FIR filed against one of the revision petitioner is not disputed before this Court and a copy of the FIR has also been produced before this Court and the arrest of the petitioner is also not disputed.

6. Condonation of delay being a discretionary power available to Courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of acceptability of the explanation, the length of delay being immaterial. It is held so by the Hon'ble Supreme Court in the case of ***"Sheo Raj Singh v. Union of India"*** [(2023) 10 SCC 531], as under:

"30. Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations



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of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and **the degree of acceptability of the explanation, the length of delay being immaterial.** (emphasis added)

7.In the present case, though delay of every day has not been properly, taking note of the fact that the substantive rights of the parties over the suit property are involved, this Court, in order to give fair opportunity to the parties to adjudicate the matter, is of the view that liberal approach is to be adopted for condonation of the delay, which would meet the interest of justice. Accordingly, the delay is condoned subject to the terms.

8.Accordingly, the order dated 01.04.2016 passed by the Court below in I.A.No.183 of 2015 is hereby set aside and the delay is condoned, subject to the payment of Rs.10,000/- payable to the respondents by the petitioners within a period of two months from the date of receipt of a copy of this



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order. On production of proof of payment, the Court below is directed to entertain the I.A. and proceed in accordance with law. It is made clear that if the costs as directed by this Court are not paid by the petitioners, the benefit granted under this order, will automatically ceased to operate.

9.Accordingly, the Civil Revision Petition is allowed. No costs.

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rst

Index : Yes/No

Internet: Yes/No

Speaking/Non-Speaking Order

To:

The Principal District Judge,
Krishnagiri.



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