



C.R.P. (PD)(MD).No.1325 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(PD)(MD)No.1325 of 2024

1. Regis Mary
D/o. Maria Antony
(Represented by her guardian
Mr.Jesu Ratnam)

2. Jesu Ratnam

... Petitioners/Petitioners/
Defendants 1 and 3

-vs-

1. Gladis Selva Rani

... Respondent/Respondent/
Plaintiff

2. Maria Johnson
3. Antony Edwin Joe
4. Pichi
5. John Kennedy
6. Josephin Prabha
7. Jose Michael

... Respondents/Respondents/
Defendants 2, 4 to 8

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decreetal order made in I.A.No.2 of 2023, dated 24.12.2024, on the file of the Additional Sub-Court, Kanyakumari District at Nagercoil in dismissing the application having been filed for setting aside the *ex-parte* decree along with delay of 2553 days filed under Section 5 of



C.R.P. (PD)(MD).No.1325 of 2024

Limitation Act and 151 of C.P.C., made in O.S.No.68 of 2011 dated 23.02.2016.

For Petitioners : Mr.T.Jeen Joseph

ORDER

The defendants 1 and 3 in O.S.No.68 of 2011 on the file of the Additional Sub-Court, Kanyakumari District at Nagercoil, are the revision petitioners.

2. The first respondent herein as the plaintiff has filed the above said suit for partition and separate possession. The revision petitioners were set *ex-parte* and *ex-parte* preliminary decree came to be passed on 23.02.2016. The decree holders had filed I.A.No.328 of 2016 for passing of final decree. In the said final decree proceedings, the defendants 1 and 3 have received the summons and they had made arrangements to file Vakalat on 24.07.2017. Thereafter, the present application has been filed in I.A.No.2 of 2013 to condone the delay of 2553 days in filing the application to set aside the *ex-parte* preliminary decree. The said application has been dismissed by the trial Court. Challenging the same, the present Civil Revision Petition has been filed.



C.R.P. (PD)(MD).No.1325 of 2024

WEB COPY

3. A perusal of the affidavit in I.A.No.2 of 2023 reveals that the defendants 1 and 3 have received the summons in the final decree proceedings and they have made arrangements for filing of Vakalat in the final decree proceedings even in July 2017. However, the present application has been filed only on 21.02.2023, to condone the delay of 2553 days in setting aside the *ex parte* preliminary decree. No legally acceptable reason has been assigned by the defendants 1 and 3. Therefore, the trial Court has rightly dismissed the application and there are no merits in the Civil Revision Petition.

4. Accordingly, this Civil Revision Petition stands dismissed. There shall be no order as to costs.

25.06.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The Additional Subordinate Court,
Kanyakumari District,
Nagercoil.



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C.R.P. (PD)(MD).No.1325 of 2024

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C.R.P.(PD)(MD)No.1325 of 2024

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