



CMP.No.7526 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 01.04.2025

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

CMP.No.7526 of 2025
in AS.SRNo.16216 of 2025

E.Karunakaran

Petitioner(s)

Vs

1.E.Sivamani

2.E.Kumar

3.E.Janakiraman

4.G.Selvakumari

5.D.Raja Kumari

6.C.Saraswathi

7.V.Devika

Respondent(s)

Prayer in CMP.No.12720 of 2024: Petition filed under Order 41 Rule 3A of CPC read with Section 5 of the Limitation Act seeking to condone the delay of 1694 days in filing the above appeal.

Prayer in Appeal Suit: Appeal filed under Section 96 of Code of Civil Procedure to set aside the judgment and decree dated 19.02.2020 in O.S.No.497 of 2015 on the file of the learned III Additional City Civil Court, Chennai.

For Petitioner : Mr.V.Subramanian

ORDER

This petition has been filed seeking to condone the delay of 1694 days in filing the above appeal.



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3. It is the contention of the petitioner that since the defendants 1 and 3 are brothers contesting the matter, he trusted them, however, later he came to know that the defendants 1 and 3 have not properly contested the matter. According to him, he is in possession of 284 sq.ft., and the property cannot be partitioned. The suit has been filed only on the basis of patta, therefore, there cannot be partition.

4. Since, no adverse order is passed against the respondents, notice to them is dispensed with. Heard the learned counsel for the petitioner and perused the materials placed on record.

5. On perusal of the entire affidavit, this Court is of the view that this petition has been filed to condone such huge delay only in order to protract the partition suit to the maximum extent. The contention that possessory right held cannot be partitioned has no legs to stand. Similarly, the contention that



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property cannot be divided also has no legs to stand. These factors can be decided only in the final decree proceedings. At any event, there is no sufficient reasons in the entire affidavit filed in support of the petition to condone such huge delay.

6. Of course, the expression“sufficient cause” should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bona fide is imputable to a party. Casually filing the petition to condone the delay in filing without any proper reasons, such huge delay cannot be condoned. A Court granting indulgence must be satisfied that there was deligence on the part of the appellant and that he was not guilty of any negligence whatsoever. Where there is no sufficient cause for condoning the delay, the said delay should not be condoned as it amounts to a case of discretion not being exercised judicially. Hence, I do not find any merits to condone such huge delay in filing the appeal.

7. Accordingly, this petition stands dismissed and un-numbered appeal suit stands rejected. No costs.

01.04.2025

Index : Yes/No

Internet : Yes/No



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N.SATHISH KUMAR, J.

dhk

To,

1.The III Additional Judge
III Additional City Civil Court, Chennai

2.The Section Officer
VR Section, Madras High Court

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