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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17-04-2025

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

CRP NO. 3767 of 2024

AND

CMP NO. 20558 of 2024

1.Veeramuthu
2.Kolanjiammal
3.Ramesh
4.Rani
5.Ramya

Petitioner(s)

Vs

Annadurai,
S/o. Ponnusamy, Vanathur Village, Veppur Taluk
Rep by Power Agent Kavitha

Respondent(s)

PRAYER : Civil Revision Petition has been filed under Article 227 of the Constitution of India, seeking to set aside the fair and decretal order passed in I.A.No.163 of 2021 in O.S.No.341 of 2014 vide order dated 31.08.2023 on the file of the Principal Sub Court, Vridhachalam.

For Petitioner(s):

Mr.T.Sezhian

For Respondent(s):

Mr.T.L.Thirumalaisamy



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ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order passed in I.A.No.163 of 2021 in O.S.No.341 of 2014 vide order dated 31.08.2023 on the file of the Principal Sub Court, Vridhachalam.

2.The brief facts of the case are as follows:

The sole respondent has filed a suit in O.S.No.341 of 2014 for partition. The suit was filed on 25.09.2014. The suit was posted for final hearing on 21.07.2015. Despite service of notice, since the petitioners/defendants did not appear, the suit was decreed *ex parte*, granting 1/3rd share of the suit schedule properties to the plaintiff vide judgment and decree dated 31.07.2015. Subsequently, the petitioners/defendants filed an application under Order 9 Rule 13 CPC seeking to set aside the *ex parte* decree along with an application in IA.No.163 of 2021 under Section 5 of the Limitation Act, to condone the delay of 2055 days. The trial Court, after finding that the petitioners have not shown sufficient cause to condone the delay of 2055 days, dismissed the



said application. Against which, the present Revision has been filed.

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3.The learned counsel for the petitioners would contend that after coming to know about the *ex parte* decree passed in the suit, they have consulted an Advocate, who in turn, had informed that the petitioners are having got a good case on merits and thereby they filed an application seeking to set aside the *ex parte* decree, with a delay of 2055 days. It is further submitted that the petitioners have a good case on merits and hence the learned counsel would urge that the revision may be allowed by setting aside the impugned order and the petitioner may be given an opportunity to contest the suit on merits.

4.The learned counsel for the respondent would submit that the petitioners are in possession of the property and they were well aware of the partition suit filed by the respondent. Despite service of notice, the petitioners did not appear before the Court, which resulted in passing the *ex parte* decree by the trial Court. The petitioners have willfully evaded from appearing before the Court in order to protract the proceedings and the trial Court has rightly held that the petitioners have not shown sufficient cause



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and dismissed the application to condone the delay of 2055 days which requires no interference.

5. Heard the learned counsel on either side and perused the entire material available on record.

6. On going through the order passed by the trial Court, this Court does not find any scope to interfere with the same since the trial Court has rightly dismissed the application, holding that the petitioners have not shown any sufficient cause for the huge delay. Therefore, this Court is of the view that the petitioners have not made out a case to entertain the present Revision. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17-04-2025

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Index: Yes/No

Neutral Citation: Yes/No



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To

1. The Principal Sub Court, Vridhachalam



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A.D.JAGADISH CHANDIRA, J.
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C.R.P.No.3767 of 2024

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