



WEB COPY



C.M.P.No.17212 of 2023
in A.S.SR.No.74138 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2024

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

C.M.P.No.17212 of 2023
in
A.S.SR.No.74138 of 2023

S.Rajendran

..Petitioner

Vs.

1.Manjula Prakash
2.Kasthuri Ravichandran
3.Shanthi Ganesan
4.S.Kumar

.. Respondents

Prayer: The Civil Miscellaneous Petition is filed under Section 151 of C.P.C, praying to condone the delay of 2181 days in preferring the above first appeal against Judgment and Preliminary decree dated 28.02.2017 passed in O.S.No.105 of 2011 on the file of the IV Additional Judge, City Civil Court, Chennai.

For petitioner : Mr.S.Arivazhgan

For R1 to R3 : Mr.N.Sudharsen

ORDER

The suit for partition filed by the sisters against their brothers was allowed by the trial Court on 28.02.2017 and a preliminary decree was passed in favour of the plaintiffs.



C.M.P.No.17212 of 2023
in A.S.SR.No.74138 of 2023

WEB COPY

2. Aggrieved by the said preliminary decree, the 1st defendant filed an appeal with enormous delay of 2181 days. According to the learned counsel for the petitioner/appellant, it was only on receipt of notice in the final decree proceedings and the report of the Advocate Commissioner that the appellant came to know that the suit had been decreed against him. Thereafter, he applied for a certified copy of the judgment and preferred the present appeal. Hence, the delay of 2181 days is sought to be condoned.

3. However, on perusal of the records indicates that the petitioner/appellant had contested the suit by filing a written statement and had also mounted the witness box to give oral evidence. In such circumstances, it is difficult to believe that his counsel failed to inform him of the result of the suit and that he remained unaware of the decree, till receiving notice in the final decree proceedings nearly seven years after the preliminary decree.

4. The reason stated for condoning the delay is not sufficient and justifiable. Hence, the petition to condone the delay stands dismissed. Consequently, the Appeal Suit is also dismissed at the SR stage itself.

05.06.2025

rpl

To
The IV Additional Judge, City Civil Court, Chennai.



WEB COPY



C.M.P.No.17212 of 2023
in A.S.SR.No.74138 of 2023

DR.G.JAYACHANDRAN,J.

rpl

C.M.P.No.17212 of 2023
in
A.S.SR.No.74138 of 2023

05.06.2025