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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.08.2025

CORAM

THE HONOURABLE MRS JUSTICE R. KALAIMATHI

C.M.P.No.1686 of 2024

and

S.A.SR.No.116936 of 2023

T.K.Kandasamy

.. Petitioner

Vs.

1. D.Sundararaju

2. Muthummal (died)

3. R.Krishnasamy

4. Maragatham

5. Kamalam

..Respondents

(R3 to R5 are recorded as LR's of the deceased R2 (Muthammal). Memo recorded (Memo Sr.No.9375) Vide order of Court dated 13.03.2024 made in C.M.P.No.1686 of 2024 in S.A.SR.No.116936 of 2023)

PRAYER: This Civil Miscellaneous Petition is filed under Section 41 R-3(A) r/w 42(1) CPC, to condone the delay of 2400 days in filing the above second appeal.

For Petitioner : Mr.M.R.Thangavel

For Respondents : Mr.K.Balasubramanian

ORDER

This civil miscellaneous petition has been filed by the plaintiff T.K.Kandasamy to condone the delay of 2400 days in filing the second appeal.

2. The petitioner would aver that he is aged about 77 years and suffering



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from chronic heart ailment. He has undergone a Coronary Angioplasty on 25.08.2015 and he is in continuous treatment at G.Kuppusamy Naidu Memorial Hospital, Coimbatore till date. The date of decree was wrongly typed and on an application before the First Appellate Court, the said date was corrected vide order dated 20.02.2023. Due to his ailment, he was unable to contact his counsel on time. Hence, there is delay of 2400 days in filing the second appeal.

3. The petitioner/sole plaintiff herein had filed a suit in O.S.No.416 of 2007 before the III Additional District Munsif, Coimbatore for a preliminary decree for partition of half of his share in the suit properties. From consideration of oral and documentary evidence of both sides and after hearing the arguments advanced on either side, the trial Court granted preliminary decree for partition in the suit property in favour of the plaintiff. Aggrieved by the same, the defendants No.3 to 6 preferred First Appeal in A.S.No.42 of 2014 and the second defendant viz., T.Sundararaju preferred First Appeal in A.S.No.50 of 2014 before the II Additional Sub Court, Coimbatore.

4. The First Appellate Court, after perusing the case records and after



hearing the arguments advanced by either side, allowed both the first appeals by setting aside the judgment and decree of the trial Court. The First Appellate Court allowed the above said first appeals as mentioned supra vide judgment and decree dated 09.11.2016.

5. Accepting the averments made in the petition, this petition stands allowed on condition of payment of cost of Rs.10,000/- payable in favour of the Cancer Institute (WIA), Gandhi Nagar Canal Bank Road, Adyar, Chennai – 20 (payable in S.B.A/c.No.149710011000002, Union Bank of India, Madhya Kailash Branch, Cancer Institute (WIA) Campus, Sardar Patel Road, Chennai-36, Branch Name and Code : 1497, MICR No.600011049, IFSC Code : UBIN0814971), on or before 03.09.2025, failing which, this petition shall stand automatically dismissed without any further reference to this Court.

19.08.2025

Index: Yes/No
Internet: Yes/No
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To

1. The III Additional District Munsif, Coimbatore.
2. The II Additional Sub Court, Coimbatore.



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R. KALAIMATHI,J.

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