



C.R.P.No.5366 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 13.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.5366 of 2024

and C.M.P.No.29773 of 2024

1.Jayamani

2.K.Karthikeyan

.. Petitioners

Versus

1. T.Ramakkal

2. A.M.Palanisamy

3. P.Sureshkumar

4. P.Rani

5. P.Lakshmi

6. P.Amirthavali

7. P.Kavitha

8. P.Kalpana

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 19.03.2020 passed in I.A.No.503 of 2019 in O.S.No.1118 of 2012 on the file of the III Additional Subordinate Judge at Coimbatore.

For Petitioner : Mr.A.Swaminathan

For Respondents : M/s.N.Krishnakumar For R1



WEB COPY



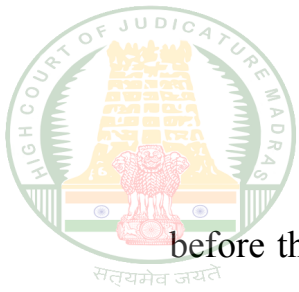
C.R.P.No.5366 of 2024

for M/s.Sarvabhauman Associates
M/s.L.L.Vinoth
D.Prabu
G.Balachandar For R2
R3- No such person
No appearance of R4 to R8

ORDER

This petition has been filed to to set aside the order dated 19.03.2020 passed in I.A.No.503 of 2019 in O.S.No.1118 of 2012 on the file of the III Additional Subordinate Judge at Coimbatore.

2. The petitioners are defendants 1 and 2 in O.S. No. 1118 of 2012 on the file of the 3rd Additional Sub Court, Coimbatore, which was filed by Ramakal for partition. The petitioners/defendants 1 and 2 had filed their written submissions on 18.09.2012. Later, some of the defendants passed away, and the plaintiff took steps to bring the legal heirs of such respondents on record, and the matter has been pending for 5 years. While so, when the matter was posted on 14.02.2017, the defendants have not appeared before the Court and *ex parte* judgment and decree were passed on 08.02.2018. The petitioners thereafter filed an application seeking to set aside the *ex parte* decree, along with a petition to condone the delay of 572 days. The respondents filed a counter, contending that the petitioners were bent upon protracting the proceedings



C.R.P.No.5366 of 2024

before the Court, and the Trial Court, by order dated 19.03.2020, dismissed the petition seeking to condone the delay. Against this, the present civil revision petition is filed.

3. Learned counsel for the petitioner submits that the petitioners and respondents are close relatives, and the suit has been filed by the plaintiff for the partition of properties. Though the petitioners filed the written statement immediately when the suit was filed, the proceedings were delayed due to the death of some defendants and the time taken by the plaintiff to bring the legal heirs of the deceased on record. Further, when the matter was listed on 14.02.2017, the petitioners went to attend a funeral and they were unable to appear before the court, and the decree was passed on 08.02.2018. He further submits that the delay is only 572 days and the substantial rights of the petitioners in defending the case were not considered by the Trial Court, which dismissed the petition. Hence, the petitioner seeks to set aside the impugned order passed by the trial court.

4. The learned counsel for the respondent/plaintiff submits that the petitioners have willfully evaded appearing before the court and that the trial court rightly finding that no sufficient cause was shown by the petitioners to



C.R.P.No.5366 of 2024

condone the delay had rightly dismissed the petition, and the final decree proceedings are pending and thereby he would seek for dismissal of the Civil Revision Petition.

5. In reply, the learned counsel for the petitioners submits that the petitioners are ready to compensate the respondents for the delay caused and are also willing to cooperate with the trial court for the speedy disposal of the trial. He further submits that the representation may be allowed on imposing costs and terms, and the petitioners be permitted to contest the case on merits.

6. Heard both sides and perused the documents available on record.

7. Admittedly, the petitioners and the respondents are relatives, and the suit has been filed for partition. Final decree proceedings are pending. Taking into consideration that the substantial rights of the parties are to be decided, this Court is inclined to allow the revision by imposing of cost and fixing terms.

8. Accordingly, the civil revision petition is allowed on the condition that the petitioners shall pay a sum of Rs. 10,000/- towards costs to the first respondent, within a period of two(2) weeks from the date of receipt of a copy of



C.R.P.No.5366 of 2024

this order. Upon such payment, the order shall be set aside, and the case shall be taken up for trial.

9. The trial Court is directed to dispose of the suit as expeditiously as possible, preferably within a period of six(6) months. The petitioners shall file an affidavit of undertaking before the trial court, stating that they will cooperate for the trial and the speedy disposal of the suit.

13.03.2025

Index : Yes / No

Internet : Yes

Speaking order: Non-speaking order

msv

To

The III Additional Subordinate Judge, Coimbatore.



WEB COPY



C.R.P.No.5366 of 2024

A.D.JAGADISH CHANDIRA, J.,

msv

C.R.P.No.5366 of 2024
and C.M.P.No.29773 of 2024



WEB COPY



C.R.P.No.5366 of 2024

13.03.2025