



CRP No.1078 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01-09-2025

CORAM

THE HONOURABLE MR.JUSTICE P.B. BALAJI

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1.M.Thiyagarajan
2.Indira

... Petitioners

Vs

1.M.Jayaprakasam
2.Gandimathi

..Respondents

Revision filed under Section 115 of the Civil Procedure Code against the fair and decreetal order dated 19.07.2022 in I.A.No.1 of 2022 in O.S.No.23 of 2013 on the file of Additional District Court, Namakkal.

For Petitioners : Mr.S.Dinu Prashanth
For Respondents : Mr.N.Manoharan

ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondents.

2. The suit for partition filed by the revision petitioners/plaintiffs in O.S.No.23 of 2013 (originally filed in O.S.No.272 of 2012) came to be dismissed for non-prosecution. The revision petitioners/plaintiffs took out an



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application in I.A.No.1 of 2022 to condone the delay of 1727 days in filing the application to restore the suit. The said application, on contest, came to be dismissed by the trial Court on 19.07.2022, as against which, the present revision is filed.

3. Learned counsel for the revision petitioners/plaintiffs states that the suit being one for partition, though delay appears to be inordinate and not properly explained, seeks for an opportunity to the revision petitioners/plaintiffs to prosecute the suit on merits.

4. Per contra, learned counsel for the respondents/defendants states that the revision petitioners/plaintiffs have not given any reasons whatsoever much less sufficient and satisfactory explanation for condoning the inordinate delay of 1727 days and therefore states that the trial Court has rightly dismissed the application and the same does not warrant any interference. Learned counsel has placed the following decisions of the Hon'ble Supreme Court:-

(i) Basawaraj and another vs Special Land Acquisition Officer reported in ***(2013) 14 SCC 81.***



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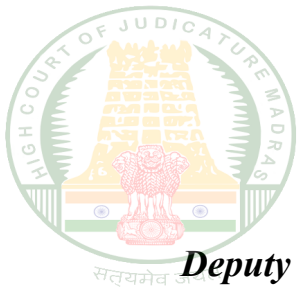
WEB COPY (ii) *Ramlal, Motilal and Chhotelal vs Rewa Coalfields Ltd* reported in *AIR 1962 SC 361*.

(iii) *Pathapati Subba Reddy (died) by Lrs and Others vs Special Deputy Collector (LA)* reported in *2024 SCC Online SC 513*.

5. In *Basawaraj and another vs Special Land Acquisition Officer* reported in *(2013) 14 SCC 81*, the Hon'ble Supreme Court held that the applicant who seeks to condone the delay, has to explain to the court as to what “sufficient cause” prevented him to approach the Court within limitation and if the applicant is found to be negligent or found to have not acted diligently, then, the court cannot condone the delay.

6. In *Ramlal, Motilal and Chhotelal vs Rewa Coalfields Ltd* reported in *AIR 1962 SC 361*, the Hon'ble Supreme Court has held that the proof of sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5 of the Limitation Act.

7. In *Pathapati Subba Reddy (died) by Lrs and Others vs Special*

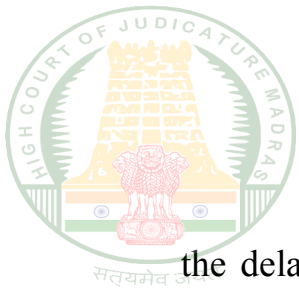


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Deputy Collector (LA) reported in **2024 SCC Online SC 513**, the Hon'ble

Supreme Court has considered the provisions of law and formulated guidelines as to how the provisions of limitation Act have to be construed and given effect. The Hon'ble Supreme Court has held that the merits of the case are not required to be considered in condoning the delay and the delay condonation application has to be decided only based on sufficient cause being explained by the applicant and the said exercise of power is discretionary in nature and may not be exercised if there is inordinate delay, negligence and want of due diligence.

8. On going through the affidavit filed in support of the application to condone the delay, excepting for contending that the revision petitioners/plaintiffs are aged 80 years and that in view of COVID, the revision petitioners/plaintiffs could not make the application for restoration of the suit, I do not find any other valid reasons assigned for the huge and inordinate delay of 1727 days in filing the application to restore the suit. As rightly contended by the learned counsel for the respondents/defendants, the lock down periods which the Courts have recognised and exemption commenced only in March 2020 and there is absolutely no explanation for



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the delay from 10.02.2017 till March 2020 which is about more than three years.

9. Therefore, I do not find that the trial Court has committed any error or illegality in dismissing the application, filed for condonation of delay of 1727 days, warranting interference by this Court.

10. In the result, the civil revision petition is dismissed. No costs.

01.09.2025

Index: Yes/No
Website:yes/no
Speaking Order/Non-speaking Order
sr

To

The Additional District Court, Namakkal



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P.B.BALAJI,,J

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