

**IN THE COURT OF THE SUB COURT, DENKANIKOTTAI
KRISHNAGIRI DISTRICT.**

**Present: Tmt. L.Kalaivani, B.A., B.L.,
Sub Judge, Denkanikottai**

Wednesday, the 03rd day of April 2024

I.A.No.2/2024 in O.S.No. 411/2021

1. Krishnamma
2. Venkatalakshmi
3. Varalakshmi
4. Ramamurthy ... Petitioners/Defendants

/Vs/

1. Venkatachalapathi
2. Subramani
3. Nagaraj
4. Ramamurthy
5. Manjula
6. Suriya ... Respondents/Plaintiffs

This petition is coming on 21.03.2024 before me for final hearing in the presence of Thiru.K.Satheesh Kumar, learned counsel for the petitioners and Tmt.J.Sudha Reddy, learned counsel for the respondents, upon hearing the both and having stood for consideration till date, this court delivered the following.

ORDER

This petition has been filed by the petitioners Under Order 8 Rule 1 (3) of CPC to condone the delay in filing the documents.

1. Brief case of the petitioners is as follows:-

The petitioners herein is the defendants in the suit and suit has been filed by the respondents seeking in the relief of partition and other consequential relief. The respondents attempted to disposes the petitioners from the suit property and for that the petitioners

lodged a complaint before the police. The father of the respondents has executed a Will in favour of the father of the petitioners in respect to the suit property. Therefore, the above said documents are necessary documents for the petitioners and the documents were misplaced at the time filing of written statement. Now, only the petitioners traced out the documents. The failure on their part to produce the documents at the earliest point of time is neither willful nor wanton. Hence, the petitioners had come forward the present petition to condone the delay in filing document.

2. Nutshell of the counter filed by the respondents is as follows:-

The respondents have denied the averments stated in the petition except that those are specifically admitted by the respondents. The petitioners have not filed the documents along with the written statement and there is no reference in respect to the proposed documents in the written statement and without pleading the petitioner cannot produce the proposed documents and in order to delay the proceeding. The present petition has been filed. Hence, it is prayed for dismissal.

3. Point for consideration is:

Whether this petition is liable to be allowed or not?

4. Answer to the Point:-

Heard the rival submissions and perused the materials available on record. A perusal of above would divulge that the petitioners herein are the defendants in the suit and the suit has been filed by the respondent seeking the relief to partition and other consequential

reliefs. At this juncture, the petitioners have come forward with the present petition to condone the delay in filing document.

5. The petitioners would contend that the proposed documents are necessary documents to prove the case of the petitioners. But, the petitioners have not produced the proposed documents at the earliest point of time. The failure on their part to produce the documents at the earliest point of time is neither willful nor wanton. Per contra, the respondent would contend that documents produced by the petitioners are not supported by the pleadings and the same cannot be received.

6. Upon perusal of written statement it is seen that the defendants have pleaded about the Will executed by the Beddaramaiah and thus, the objection of the respondents that there is no pleading in respect to the proposed documents is not acceptable one. The above application was filed to receive the documents only and just because the documents were received as additional documents that does not amount to marking of the documents and the onus is on the petitioners to prove the admissibility of the documents and proof and relevancy at the time of marking of the documents. Further it would not be necessary for the court to go into the admissibility and validity of the documents at this juncture.

7. Reasons stated in the affidavit are convincing. Considering the same and in the interest of justice this petition is liable to be allowed. Moreover, there is no prejudice would be caused to the contested respondents if the petition is going to be allowed. Since the respondents are at liberty to raise their objection at the time of marking of the documents.

In the result, this petition is allowed with a liberty to the respondents to raise objections if any at the time of marking of the documents and there will be no order as to cost.

Dictated by me, to the Steno Typist, and computerized by her, corrected by me and pronounced in the open court, on this 03rd day of April 2024.