

IN THE COURT OF THE DISTRICT MUNSIF, TIRUTTANI

Present : Tmt. S. KAVIPRIYA, B.A., LLB.,
District Munsif, Tiruttani

Dated this Tuesday the 26th Day of October 2021

IA.No.1 OF 2021 IN OS.No.25 OF 2018

...

1. A. Santhi
2. K. Vijayakumar (died)
3. K. Ramesh

...Petitioners/Plaintiffs 1 to 3

4. Manjula
5. Vinoth kumar
6. Prasanth

...Proposed Petitioners/ Proposed plaintiffs 4 to 6
/Versus/

1. Karpagam
2. D. Sivgami
3. M. Kumar
4. K. Balasubramani

... Respondents / Defendants

This petition came up before me for final hearing on 27.09.2021 in the presence of Mr. S. Suresh, Advocate for petitioners and M/s. R. Srinivasan, R. Rajeshwarababu and P. Praveena, Advocates for Respondents and Respondents No.1 to 3 are called absent, set exparte and upon hearing both side and having stood over for consideration till this day, this court delivered the following:-

ORDER

This petition is filed under section 5 of CPC to condone the delay of 339 days in filing order L.R. application of deceased 2nd plaintiff under Order 22 Rule 3 of CPC petition.

Petition in brief:

2. The about suit was filed by the plaintiffs against the defendants for partition, separate possession and declaring the registered sale deeds dated 12.06.2007 and 15.10.2009 is null and void and for other reliefs. While the suit is pending the 2nd plaintiff in the above suit namely K. Vijayakumar died on 07.11.2019 leaving the proposed petitioners 4 to 6 and there are no other legalheirs. Further in the month of March 2020, due to Corona due to inconvenience, the petitioner have not contacted his advocate and after wards while the petitioner have contacted his advocate advised to file LR application in filing the same there is a delay of 337 days and the same is not willful and wanton one, if the delay is not condoned, the petitioner will be put to loss and damages.

Counter filed by the 4th respondent averments in brief:

3. The 2nd plaintiff died very long back. The petition is highly belated. The petitioner/ plaintiff is the law breakers taking law in to their hands and they have not come to the court with clean hands. The petitioner intention is only to dragging the proceedings and hence this petition is liable to be dismissed in limini with costs.

Point:-

4. Whether the petitioners are entitled to the relief as sought for?

5. The petitioners filed this petition to condone the delay of 337 days to file the LR application. Petitioners stated that 2nd plaintiff died on 07.11.2019 but memo was filed only on 10.11.2020 and steps was filed on 30.03.2021. The main delay was 337 days from the date of death of the 2nd Plaintiff. The petitioners not stated the reason for delay from the date of the death. Even though, the steps was filed in time and pending from 2019 after covid-19 issue. Therefore, in the interest of justice and to avoid multiplicity of proceedings and mainly the suit was for partition the 2nd Plaintiff is necessary party, hence, the legalheirs of the 2nd plaintiff to be impleaded, hence, the delay of 337 days is hereby condoned with costs.

In the result, this petition is allowed on cost of Rs.500/- to 4th respondent.

Cost to be paid on or before 8.11.2021, failing which this petition stands dismissed. Call on 8.11.2021.

Dictated to Steno – Typist, computerized by her directly, corrected and pronounced by me in open court, this the 26th day of October 2021.

Sd/- S. Kavipriya
District Munsif,
Tiruttani.

Both sides Exhibits and witnesses: NIL

Sd/- S. Kavipriya
District Munsif,
Tiruttani.