



A.No.946 of 2020 in C.S.No.1157 of 1990

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N.SESHASAYEE, J.,

The present application is filed by the plaintiffs for condoning the delay in filing an application for restoration of the suit back in the file of the Court.

2. The suit is laid for partition of plaintiffs' 1/5 share in the suit properties. On 03.01.1991, summons were served on the defendants, and as they did not choose to appear to contest the suit, on 25.11.1991, an ex parte preliminary decree came to be passed. Later on 04.01.1993, vide orders passed in A.Nos.4541 and 4542 of 1992, the ex parte preliminary decree was set aside and the written statement of the defendants was taken on record. Subsequently, it is alleged that on 13.07.1995, the plaintiffs are said to have filed a memo for withdrawing the suit, based on which, on 30.09.1999, the suit came to be dismissed as not pressed. Thereafter, on 08.10.1999, the plaintiffs are stated to have filed a memo for return of 15 documents that they have filed before the Court. Alleging that the plaintiffs have neither signed nor have instructed the counsel to file any memo such as the one dated 13.07.1995 or 08.10.1999, the plaintiffs have come forward with the present application for restoration of the suit back in its file along with an application for condonation of delay in filing the same. This is now resisted by the respondents/defendants.

N.SESHASAYEE.J.,



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3. The Registry is now required to make available the original memos dated 13.07.1995 and 08.10.1999, both said to have been filed by the plaintiffs.

Post the matter on 24.02.2023.

20.02.2023

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