



C.R.P.(MD) No.1144 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2023

CORAM

THE HON'BLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(MD) No.1144 of 2019

and

C.M.P.(MD) No.6214 of 2019

Neelavathy (died)

1.Kannan

2.Elangovan

3.Jayakumar

4.Elaiyaraja

... Petitioners

Vs.

1.M.Vairam

2.Jaganathan

Jeevanantham (died)

... Respondents

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No. 195 of 2017 in I.A.No.1029 of 2010 in O.S.No.584 of 2010 on the file of the 1st Additional District Munsif Court, Kumbakonam dated 17.11.2017.

For Petitioners : Mr.M.R.S.Prabhu

For Respondents : No appearance



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ORDER

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The petitioners herein are the plaintiffs, and the respondents herein are the defendants in O.S.No.584 of 2010 on the file of the I Additional District Munsif Court, Kumbakonam.

2. This Civil Revision Petition has been filed by the petitioners/plaintiffs against the fair and decreetal order passed by the Court below in I.A.No.195 of 2017 in I.A.No.1029 of 2010 in O.S.No.584 of 2010, dated 17.11.2017.

3. It appears that the suit was filed for the relief of permanent injunction. In which, the petitioner/plaintiffs have filed an application in I.A.No.1029 of 2010 for order of a temporary injunction. In the said application, since the respondent/defendants were absent, the Court below has passed an *exparte* order on 26.11.2010 granting temporary injunction in favour of the petitioners/plaintiffs. Aggrieved by the same, the respondents/defendants moved an application in I.A.No.195 of 2017 for setting aside the *exparte* order dated 26.11.2010 passed in I.A.No.1029 of 2010 in O.S.No.584 of 2010. The said application in I.A.No.195 of 2017 was ultimately allowed by the Court below *vide* impugned order dated 17.11.2017. Aggrieved by this, the petitioners/plaintiffs are before this Court.



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4. The learned counsel for the petitioner/plaintiffs would submit that the respondents/defendants have moved the application to set aside the *exparte* order after a period of 7 years and the reasons assigned by them was not substantiated before the Court below and the application has been filed after lapse of long period of 7 years without filing any condone delay application. He would further submit that the Court below has erroneously allowed the said application filed by the respondent/defendant to set aside the *exparte* order.

5. Despite notice being served on the respondents/defendants and their names being printed in the cause list, none appeared for them.

6. I have given my anxious consideration to the submission of the learned counsel for the petitioners/plaintiffs.

7. The sum and substance of the submissions made by the learned counsel for the petitioners/plaintiffs is that, there is no proof in respect of the ailment of the second respondent/second defendant, and that there is no sufficient cause for allowing the set aside application. However, on perusing the records, it is clear that the suit is of the year 2010 and much water would have flown since then.



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8. Apart from that, even while perusing the order of the Court below, the Court below has believed the version of the petitioners/plaintiffs. Therefore, at this length of time, this Court do not want to interfere with the said order.

9. Accordingly, this Civil Revision Petition stands dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

19.09.2023

Internet : Yes/No

NCC : Yes/No

jen

To

The I Additional District Munsif,
Kumbakonam.



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C.KUMARAPPAN, J.

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