

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2016

CORAM

THE HONOURABLE MR.JUSTICE M.DURAIWAMY

C.R.P.(NPD).No.893 of 2014
and M.P.No.1 of 2014

Krishnan (Died)

1.Muniyammal

2.Govindan

3.Dhanalakshmi

... Petitioners

Vs

1.Ramaiyan

2.Dhanapal

3.Geetha

... Respondents

Civil Revision Petition under Section 115 of the Code of Civil Procedure against the order and decree dated 25.09.2013 passed in I.A.No.4 of 2013 in C.M.A.No. of 2013 on the file of the Subordinate Judge, Vaniyambadi.

For Petitioners : Mr.A.Gowthaman

For Respondents : Mr.Arun Anbumani

ORDER

Challenging the order passed in I.A.No.4 of 2013 in un-numbered C.M.A.No. of 2013 on the file of the Subordinate Court, Vaniyambadi, the respondents in the appeal have filed the above Civil Revision Petition.

2.The respondents herein filed a suit in O.S.No.86 of 1998 on the file of the Principal District Munsif Court, Ambur for recovery of money. Though the defendants appeared before the trial Court by engaging a counsel, subsequently, they remained absent. Hence, the trial Court had decreed the suit *exparte* on 04.08.2000 and thereafter, the defendants filed an application in I.A.No.60 of 2012 to set aside the *exparte* decree dated 04.08.2000. After contest, the trial Court dismissed the application, against which the defendants filed the un-numbered appeal in C.M.A.No. of 2013 with a petition in I.A.No.4 of 2013 to condone the delay of 4 days in filing the appeal.

3.In paragraph - 3 of the affidavit filed in support of the petition, the defendants have explained the reasons for the delay of 4 days in filing the appeal. The plaintiffs filed their counter and opposed the application. The Lower Appellate Court, taking into consideration the case of both parties, allowed the application, on payment of cost of Rs.500/-, against which the plaintiffs filed the above Civil Revision Petition.

4.Since the defendants have satisfactorily explained the reasons for the delay of 4 days in filing the appeal in paragraph - 3 of the affidavit, the Lower Appellate Court has rightly allowed the application. Since the delay

was properly explained by the defendants in filing the appeal, in the interest of justice, the defendants should be given an opportunity to challenge the order passed by the trial Court. Taking note of all these aspects, the Lower Appellate Court has rightly condoned the delay of 4 days in filing the appeal.

5.In these circumstances, I do not find any reason to interfere with the order passed by the Lower Appellate Court. The Civil Revision Petition is devoid of merits and the same is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed.

6.Since the suit was filed as early as in the year 1998, I direct the Subordinate Judge, Vaniyambadi to dispose of the appeal filed by the defendants against the order passed in I.A.No.60 of 2012 in O.S.No.86 of 1998 within a period of four months from the date of numbering the appeal. No costs. Consequently, the connected miscellaneous petition is closed.

Index : No
Internet : Yes
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01.11.2016

M.DURAIWAMY,J.
va

To

The Subordinate Judge,
Vaniyambadi.

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