

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.03.2016

CORAM

THE HONOURABLE Dr.JUSTICE S.VIMALA

CRP (NPD) No.594 of 2016

and

CMP.No.3151 of 2016

1.K.P.Kandasamy
S/o.Palaniappa Gounder

2.Gunasakthivel
S/o.K.P.Kandasamy
Both are residing at
Manakadu Thottam,
Kaveripatty Village & Post,
Thevoor (via), Sankari Taluk,
Salem District.

.. Petitioners

Vs

K.Muthu
S/o.Kandappa Gounder
D.No.6/10, Edappadi Road,
Kaveri Nager,
Komarapalayam Agraharam Village,
Komarapalayam Town,
Tiruchengode.

.. Respondents

Prayer:- Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the order dated 03.09.2015 dismissing the application in I.A.No.22 of 2015 in O.S.No.71 of 2007 on the file of Subordinate Court, Sankari.

For Petitioner

:Mr.P.Jagadeesan

ORDER

The revision petitioners herein, as defendants in O.S.No.71 of 2007, filed a petition in I.A.No.22 of 2015 on the file of Sub Court, Sankari, seeking to condone the delay of 1386 days in filing the petition to set aside the exparte decree. That application was dismissed. Challenging the same, the said revision petition has been filed.

2. The learned counsel for revision petitioner would submit that the father of the 2nd revision petitioner (i.e., 1st revision petitioner herein) was bed-ridden because of the accident occurred and that being the justifiable ground, the delay ought to have been condoned.

3. The fact remains that as per the documents filed before the Court below, the 1st revision petitioner had been admitted in the hospital on 21.07.2009 and discharged on 02.08.2009, which is only for a short duration of 10 to 11 days of hospitalization, there should not have been any difficulty for the 1st revision petitioner to attend the Court. In any event, the co-defendant, i.e., the second revision petitioner herein, who is the son of the first petitioner could have taken sufficient care to appear before the Court below at the time of trial, as well as after service of notice in the execution petition. That has not been done.

4. The reasons adduced by the revision petitioners does not justify the Court below to condone the delay and rightly delay has not been condoned.

5. The order passed by the lower Court does not suffer any infirmity or impropriety and therefore there is no merits in the revision and accordingly this revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

02.03.2016

ds

To:

The Sub Court
Sankari.

S.VIMALA,J.

ds

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