



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.01.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.MATHIVANAN

C.R.P. (MD) No.160 of 2016

1.Kannammal
2.Nageswari
3.Rajeswari

.. Petitioners/Petitioners/
Appellants

-Vs-

Soundara Pandian

.. Respondent /Respondent/
Respondent

Prayer:- Petition filed under Section 115 of Code of Civil Procedure to set aside the fair and decreetal order dated 14.11.2014 in I.A.No.108 of 2014 in an unnumbered appeal in AS.Sr.No.850 of 2014 on the file of the Principal Subordinate Judge, Nagercoil.

For Appellants : Mr.N.S.Ramakrishna Dass
For Respondent : Mr.K.Sreekumaran Nair

ORDER

This revision is directed against the fair and decreetal order dated 14.11.2014 and made in the application in I.A.No.108 of 2014 in an unnumbered appeal, on the file of the learned Principal Subordinate Judge, Nagaercoil.

2. Heard Mr.N.S.Ramakrishna Dass, learned Counsel appearing for the revision petitioners and Mr.K.Sreekumaran Nair, learned Counsel appearing for the respondent.

3. The revision petitioners are the appellants in the unnumbered appeal and the plaintiffs in the suit in O.S.NO.200 of 2012. The respondent herein is the defendant. It appears that the revision petitioners had filed a suit in O.S.No.200 of 2012 on the file of the learned Principal District Munsif, Nagercoil as against the respondent/defendant seeking the relief of permanent injunction. The suit was contested by the respondent/defendant by filing a written statement. After evaluating the evidences both oral and documentary, the suit was dismissed rejecting the prayer of permanent injunction. Against which, the revision petitioners had filed the appeal along with an application under Section 5 of the Limitation Act in I.A.No.108 of 2014 to condone the delay of 232 days in filing the appeal. That petition was dismissed on the ground that no sufficient cause is shown to condone the delay.



4. As it appear from the records, the only reason assigned by the revision petitioners is that after the pronouncement of judgment, the case bundle was misplaced along with other bundles in the office of their Counsel and that was why they were not able to file the appeal in time. This reason has not been considered as sufficient cause to condone the delay. Only on the sole ground, that petition was dismissed.

5. Mr.K.Sreekumaran Nair, learned Counsel appearing for the respondent has strongly and vehemently opposed to allow this revision referring the finding of the trial Court and that as contemplated under Section 5 of the Limitation Act, the petitioners ought to have shown sufficient cause to condone the delay. Since he had failed to show sufficient cause to condone the delay, that petition was rightly rejected and therefore that order need not be disturbed.

6. This Court has considered the submissions made on behalf of both sides and perused the grounds of revision petition.

7. Having regard to all the related facts and circumstances, to meet the ends of justice, this Court finds that an opportunity might be given to the revision petitioners/appellants to project the case before the appellate Court. In view of the above facts, the revision petition is allowed and the impugned order dated 14.11.2014 in I.A.No.108 of 2014 in the unnumbered A.S.Sr.No.850 of 2014 is set aside and the petitioner in I.A.No.108 of 2014 is allowed. The first Appellate Court is directed to take the appeal on its file, after numbering the same and dispose the said appeal after hearing both sides by the end of April 2016. There shall be no order as to costs.

Sd/-

Assistant Registrar (P&A)

/True copy/

Sub Assistant Registrar

To

The Principal Subordinate Court, Nagercoil.

+1 CC to Mr.N.S.RAMAKRISHA DOSS, Advocate, SR No.4314

+1 CC to Mr.K.SREEKUMARAN NAIR, Advocate, SR No.4296

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