

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **04.04.2017**

CORAM:

THE HONOURABLE MR.**JUSTICE K.K.SASIDHARAN**

C.R.P.(N.P.D.) No.1315 OF 2013

1.Chandran

2.Moorthy

... petitioners

versus

1.Pushpa

2.Kuppusamy

3.M.Ganapathy

4.Elumalai

5.Kandasamy

6.Mohan

... respondents

PRAYER: Revision filed against the order dated 21.02.2012, in I.A.No.115 of 2011 in A.S.No. Of 2011 on the file of the Principal Subordinate Court, Salem.

For petitioners :: Mr.V.Manisekaran

For respondents :: Mr.T.S.Vijayaraghavan

ORDER

This civil revision petition is directed against the order dated 21 February 2012 in I.A.No.115 of 2011 dismissing the application filed by the petitioner to condone the delay of 667 days in re-presenting the appeal.

2. Heard the learned counsel for the petitioners and the learned

counsel for the respondents.

3. The respondents filed a suit in O.S.No.653 of 2005 against the petitioners seeking a decree of injunction. The suit was decreed by the Trial Court. The petitioners filed first appeal before the Principal Subordinate Judge, Salem. The appeal was returned by the Principal Subordinate Judge, Salem. The appeal was not re-presented within the time permitted. The petitioners filed an application in I.A.No.115 of 2011 to condone the delay of 667 days in re-presenting the appeal memorandum. Since sufficient reasons were not given by the petitioners, the Trial Court dismissed the application.

4. There is no dispute that even in an application to condone the delay in representing the appeal memorandum, the party has to give sufficient reasons. It is not as if the Court is bound to condone the delay in re-presenting the appeal memorandum. In the subject case, the respondents filed a representative suit against the petitioners and obtained a decree. In case the delay is not condoned, the petitioners would be denied of an opportunity to canvas arguments before the First Appellate Court. In view of the said reason, I consider it deem and fit to condone the delay by setting aside the order passed by the Principal Subordinate Judge, Salem.

5. In the result, the order dated 21 February 2012 is set aside. The application in I.A.No.115 of 2011 is allowed subject to the condition that the petitioners shall pay a sum of Rs.2,000/- (Rupees Two Thousand only), as cost, to each of the respondents. The cost shall be paid within a period of four weeks, failing which, the application shall be dismissed without any further reference to this Court.

6. The civil revision petition is allowed as indicated above. No costs.

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Index:Yes/no
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To
The Principal Subordinate Court, Salem.

K.K.SASIDHARAN, J.

(tar)

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