



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.08.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) .No.1745 of 2018

1. Sithi Vinayagar Kovil Kodaikala Kattalai,
Sithi Vinayagar Kovil,
Kokkirakkulam,
Tirunelveli,
Tirunelveli District.
 2. Veeraragavapuram Aintham Naal Kattalai,
Kannamman Puthu Amman Navarathiri,
Tirunelveli Taluk,
Tirunelveli District.
 3. Kannappapillai Kudumba Subramaniya Swamy Archanai Kattalai,
Tiruchandhur,
Tiruchendur Taluk,
Tuticorin District.
 4. S.Saminathan
Somasundharam (died)
 5. Mangala Sundhari ... Petitioners/ Petitioners/
Plaintiffs
- (Petitioners 1 to 3 are Kattalais and they represented by their
Hakthars/Petitioners 4 and 5)

Vs.

S.Subramaniyan (Died)

1. Venkadasubramaniyan
2. Muthulatchumi
3. Peratchi
4. S.Sivagami Sundhari
5. Arumugam
6. S.Sangaranarayanan ... Respondents/Respondents/
Defendants

PRAYER: Petition filed under Article 227 of the Constitution of India, against the order dated 27.07.2017 passed in I.A.No.837 of 2016 in O.S.No.88 of 2006 on the file of the Additional
Superior Court, Tirunelveli.



For petitioner : Mr.K.Rajeswaran
For R1,R2,R5 and R6 : Mr.S.P.Maharajan

O R D E R

WEB COPY The revision petitioners instituted O.S.No.88 of 2006 before the Additional Sub Court, Tirunelveli, seeking certain reliefs. The suit was dismissed for default on 10.06.2016. To restore the same, an application was filed under Order 9 Rule 9 of C.P.C. But there was delay in filing such an application. To condone the delay of 157 days, I.A.No.837 of 2016 was filed. The Court below dismissed the said I.A., by order dated 27.07.2017. Questioning the same, this Civil Revision Petition has been filed.

2.Heard the learned counsel on either side.

3.The learned counsel for the respondents wanted this Court to sustain the order impugned in this Civil Revision Petition.

4. I am of the view that since, the delay occasioned in filing the restoration application cannot be said to be inordinate. The Court below could have viewed this issue indulgently. In this view of the matter, the order impugned in this Civil Revision Petition is set aside. I.A.No.837 of 2016 on the file of the learned Additional Sub Judge, Tirunelveli, is allowed. The Court below shall number the application for restoration and allow the same too. The suit shall be restored to file.

5. The Counsel for the respondents submits that the respondents are senior citizens. In this case, one Sivagami Sundari is no more. The revision petitioner shall take steps for bringing her legal heirs on record. That shall be done within a period of four weeks from the date of receipt of a copy of this order. The suit shall also be speedily conducted and concluded within a period of three months thereafter.

6. Accordingly, this Civil Revision Petition stands allowed. No costs.

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-III)

To

<https://hcservices.hcscourt.gov.in/hcservices>
The Additional Sub Judge,
Tirunelveli.



2. The Record Keeper,
VR Section, (2 Copies),
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr.K.Rajeswaran, Advocate SR.No.78679
+1cc to Mr.S.P.Maharajan, Advocate SR.No.78394
Pnn
MK/SKN/SAR 3/31.08.2018/3P/6C

ORDER MADE IN
C.R.P. (NPD) (MD) .No.1745 of 2018
13.08.2018