

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.03.2019

CORAM

THE HONOURABLE **MR.JUSTICE C.SARAVANAN**

C.R.P.(NPD).No.2794 of 2014

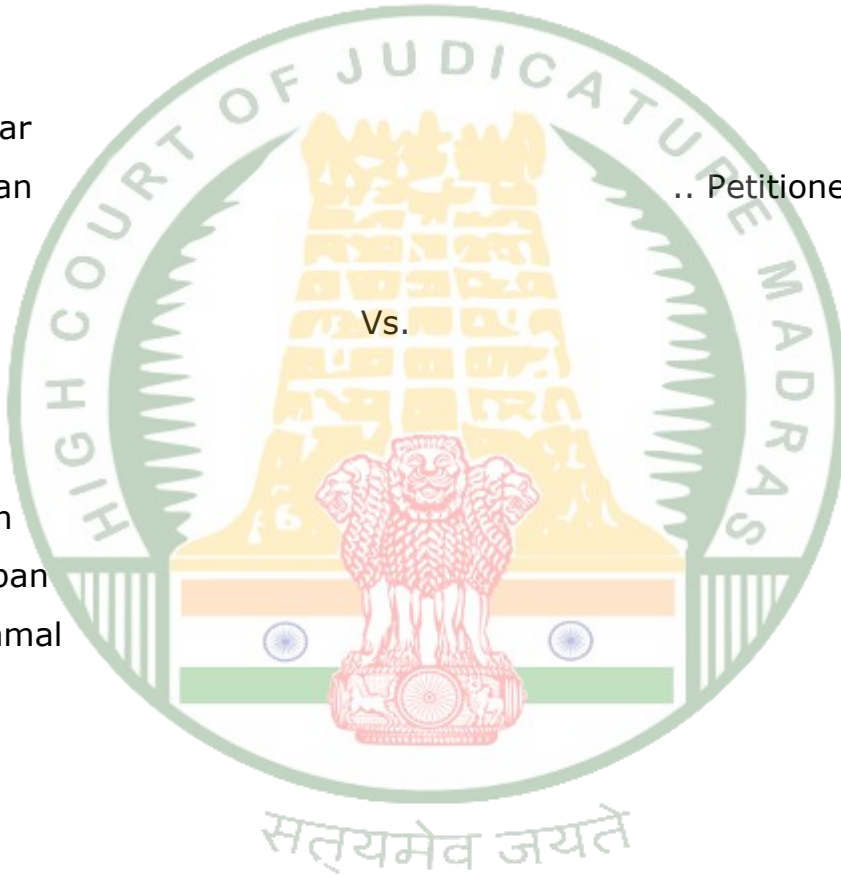
1.Perumal
2.Sathishkuar
3.Karthikeyan

.. Petitioners

Vs.

1.Usharani
2.Deepa
3.Raguvaran
4.Chenniappan
5.Thulasiammal
6.Sivakami
7.Suseela
8.Parvathi
9.Sasikala
10.Shanmugam
11.Ganapathy
12.Thangamani
13.Nallasamy
14.Loganathan
15.V.P.Loganathan
16.S.A.Thangaraj

.. Respondents



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set aside order dated 06.06.2014 passed in I.A.No.330 of 2013 in O.S.No.369 of 2010 on the file of the Principal Subordinate Court, Erode.

For Petitioners : Mr.T.Gowthaman
for Mr.A.K.Kumaraswamy

For Respondent : Mr.C.Deivasigamani
for R4 to R7,R8, R9 to R13

R1 to R3 and R14 to R16 -
Exparte

ORDER

The present Civil Revision Petition has been filed against the fair and decretal order dated 06.06.2014 in I.A.No.330 of 2013 in O.S.No.369 of 2010 passed by the Principal Subordinate Court, Erode.

2.The petitioners are the plaintiffs in the above suit. The suit was dismissed for non-prosecution on 31.10.2011. The petitioners thereafter filed an application to restore the suit with an application for condoning the delay of 564 days in filing the restoration application. The said application was dismissed by the Court vide impugned order.

3.In the affidavit filed by the first petitioner in support of the above application, he has stated that he was the incharge of the suit and the reasons for non appearance at the time of dismissal due to illness when the suit was posted on 31.10.2011 for trial. As he was suffering from fever therefore could not appear before court and could

not intimate his counsel about his illness. Therefore, his counsel also could not appear to get adjournment and therefore the suit was dismissed and he was expecting that the next date of hearing would be intimated. Only after the counsel for the respondents issued a notice dated 16.09.2012, he came to know about the dismissal of the suit and thereafter filed the application to restore the suit.

4. It is noticed that the application for condoning the delay has been filed on 17.06.2013. Though the petitioners received the notice on 16.09.2012 from the counsel for the respondents intimating the dismissal of the suit, no steps were taken immediately even after the receipt of notice on 16.09.2012. Therefore, it is evident that the petitioners were negligent and did not take steps to restore the suit even after they came to know that the suit was dismissed. I do not find any reason to interfere with the order impugned dismissing the application to condone the delay.

5. Therefore the present Civil Revision Petition is dismissed. No costs.

12.03.2019

Index : Yes/No
Internet : Yes/No
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To
The Principal Subordinate Court,
Erode.



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