

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2019

CORAM :

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

**C.R.P.(NPD).No.8 of 2014**

**and**

**M.P.No.1 of 2014**

1. Thirumurugavel

2. Parameswari

... Petitioners / Defendants

**Vs**

Govindasamy

... Respondent / Plaintiff

**Prayer:** Civil Revision Petition is filed under Section 115 of C.P.C., against the fair and decreetal order dated 09.12.2013 made in I.A.No.798 of 2013 in O.S.No.188 of 2010 on the file of the District Munsif, Attur.

For Petitioners : Mr.C.Vediappan  
For Respondent : Mr.P.Jagadeesan

**ORDER**

The present revision petition is directed against order dated 09.12.2013 made in I.A.No.798 of 2013 in O.S.No.188 of 2010 on the file of the District Munsif, Attur.

2. The petitioners are the defendants in the above suit and were set exparte on 04.07.2011 and thereafter, an exparte judgment and decree was passed on 25.07.2011. As per the judgment and decree, the petitioners/defendants has to pay a sum of Rs.20,000/- per year to the respondent/plaintiff as damages from the date of suit till they remove the palmyrah trees which affected the agricultural activities done by the respondent / plaintiff's land.

3. After the petitioners/defendants were set exparte, the suit was decreed on 25.07.2011. Thereafter the petitioners filed I.A.No.798 of 2013 to set aside the exparte decree dated 25.07.2011 with a delay of 675 days. The said application was dismissed by the Court below holding that there is no sufficient cause for condoning the aforesaid delay in setting aside the exparte decree. The affidavit filed by the petitioners to condone the delay though sketchy appears to plead that there were talks for compromise which did not fortify.

4. Considering the fact that the consequence arising out of the exparte decree is of the recurring nature inasmuch as the petitioners have to pay Rs.20,000/- per annum as damages from the date of suit till they remove the palmyrah trees, I am inclined to allow this

Revision Petition subject to the following conditions:-

i) The petitioners who are the defendants in the above suit shall pay Rs.10,000/- to the respondent/plaintiff as cost within a period of four weeks from the date of receipt of a copy of this order.

ii) On payment of cost and production of proof by the petitioners, the Court below shall take up the suit and complete the proceedings within a period of six months thereafter.

5. With the above directions, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed.

12.03.2019

Index:Yes/No  
Internet:Yes/No  
ssn

To  
The District Munsif,  
Attur.

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**C.SARAVANAN, J.,**

ssn



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