

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED: 18.06.2019

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

C.R.P.(NPD)(MD).No.134 of 2014
and M.P.(MD).No.1 of 2014

1.Selvaraj
2.Valli @ Valliyamai
3.Boopathi

.. Petitioners/Petitioners

Vs.

1.T.Kannammal
2.T.Gopinath

.. Respondents/Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decretal order, dated 05.09.2013, in I.A.No.710 of 2012 in O.S.No.94 of 2009, on the file of the District Munsif, Musiri.

For Petitioners : Mr.K.Govindarajan
For Respondents : Mr.H.Arumugam

ORDER

This revision petition is filed challenging the order, dated 05.09.2013, passed in I.A.No.710 of 2012 in O.S.No.94 of 2009, whereby the above mentioned application to condone the delay of 966 days in filing the application to set aside the *ex-parte* judgment and decree was rejected.

2.I heard the learned counsel for the revision petitioners and the learned counsel for the respondents.

3.The case of the revision petitioners is that an Advocate had been engaged, but in view of non filing of the written statement, the *ex-parte* judgment and decree was issued. The learned counsel further submits that the revision petitioner became aware of the *ex-parte* judgment and decree only upon receipt of summons in E.P.No.48 of 2011. He further submits that important documents from the Sub Registrar's Office were required and that resulted in the delay in defending the suit.



4. On perusal of the impugned order, it is clear that the trial Court has examined the contentions of the revision petitioner's carefully. The contention that the ex-parte judgment and decree was the result of non filing of the written statement and that an Advocate had been engaged for that purpose was rejected by the trial Court by examining the Court records, which show that the defendants refused to receive suit summons. Similarly, the trial Court expressly adverted to the fact that the revision petitioners appeared in E.P.No.48 of 2011, on 10.10.2011, but chose to file the interlocutory application, out of which the revision petition arises only on 19.04.2012, i.e., after a further 6 months. The trial Court further considered the other contention of the revision petitioners that important documents were required to be obtained from the Sub Registrar's Office and that caused delay. In this regard, the learned Judge recorded that no such documents were annexed by the revision petitioners to the interlocutory application to condone the delay. On the above basis, the trial Court held that the revision petitioners did not show sufficient cause to explain the in-ordinate delay of 966 days. Indeed, the Trial Court concluded that the revision petitioner did not approach the Court with clean hands.

5. I find no infirmity in the impugned order of the trial Court, especially when the delay is as much as 966 days. Unless sufficient cause is shown, condoning such delay would cause prejudice to the counter party in the suit, namely, the plaintiff. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

/ True Copy /

Sub Assistant Registrar (CS-)

TM

To

1. The District Munsif, Musiri.

2. The Section Officer, E.R/V.R. Section,
Madurai Bench of Madras High Court, Madurai. **(2 copies)**

+1 CC to M/s.K.GOVINDARAJAN, Advocate (SR-69854[F] dated 19/06/2019)
+1 CC to M/s.H.ARUMUGAM, Advocate (SR-70103[F] dated 20/06/2019)

C.R.P. (NPD) (MD) .No.134 of 2014
18.06.2019