

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

DATED : 21.06.2019

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU**C.R.P (MD) .No.2080 of 2016 (PD)****and****C.M.P. (MD) .No.9714 of 2016**

1.Seenivasarahavan

2.Lakshmi

3.Purushothaman

4.Thilagavathi

5.Thilakalakshmi Fribre (P) Ltd.,
Unjampatti Village,
By-Pass Road, Theni Taluk,
Theni District,
rep. through its Director,
Seenivasarahavan

... Petitioners/ Petitioners/
Appellants/Defendants

Vs.

A.Alagumalai

... Respondent / Respondent/
Respondent/ Plaintiff

PRAYER:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, against the order dated 06.09.2016 passed in I.A.No.111 of 2015 in unnumbered A.S.No.nil of 2015 by the Subordinate Court, Theni.

For petitioners : Mr.M.A.M.Raja

For respondent : Mr.A.Arumugam,
for M/s.Ajmal Associates

ORDER

This civil revision petition has been filed by the petitioners/plaintiffs challenging the order, dated 06.09.2016, passed in I.A.No.111 of 2015 in unnumbered A.S.No.Nil of 2015, whereby and whereunder the first appellate Court has dismissed the application filed by the petitioners seeking to condone the delay of 350 days in filing the appeal.



2. The respondent herein as plaintiff has filed the suit in O.S.No.100 of 2012 for declaration and vacant possession of the suit property. The Trial Court, after trial, decreed the suit as prayed for. Questioning the same, the petitioners/defendants presented an appeal before the first appellate Court. For filing the said appeal, there occurred a delay of 350 days. In order to condone the same, the petitioners/defendants filed I.A.No.111 of 2015. After hearing both sides, the first appellate Court dismissed the said application holding that the petitioners have not assigned valid reasons for condoning the delay. Challenging the said order, the petitioners/defendants are before this Court.

3. Heard the learned counsel appearing for both sides and perused the records carefully.

4. It is a settled law that the condonation of delay is a matter of discretion of the Court. There should be a liberal, pragmatic, justice oriented and non-pedantic approach while dealing with an application for condonation of delay. The length of delay is not material and acceptability of explanation is important. Even the delay of long range can be condoned, if the explanation is satisfactory.

5. The affidavit filed in support of the petition in I.A.No.111 of 2015 was sworn by the first petitioner herein. The reason stated by the petitioners before the first appellate Court for condoning the inordinate delay of 350 days is that as he was taking treatment in the hospital for his illness, he could not obtain copy of judgment and instruct his counsel to file appeal. By Exs.R1 to R3, the respondent/plaintiff clearly proved that the first petitioner has been attending the criminal Court regularly and that the reason stated by the petitioners is a blatant lie. The delay on the part of the other petitioners has not been explained. This Court does not find any reason to interfere with the order passed by the first appellate Court. There is no merit in this petition.

6. In view of the above, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Subordinate Judge,
Theni.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO M/S.M.A.M.RAJA,ADVOCATE, SR.NO.70908

+1CC TO AJMAL ASSOCIATES,ADVOCATE,, SR.NO.70819

C.R.P (MD) .No.2080 of 2016 (PD)
21.06.2019

BUC (09.07.2019) 3P 6C