

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P.NPD.No.2342 of 2015

1. Desammal
 2. M. Boobalan
 3. M. Narasimman
- Petitioners

Vs.

1. M. Ponnuswamy Reddy (deceased)
2. M. Kannappan
3. D.V.Janakiraman
4. Krishnaveni
5. D.V. Santhi
6. Ramani
7. D.V. Chakkarapani
8. D.V. Jothi (deceased)

9. Mannammal

10. Easwari

11. The Thasildhar,

Pallipattu Taluk,

Pallipattu Town and Taluk,

Thiruvallur District.

12. Kantha

13. Chinnakuzhalandai

14. Ponniyammal

(RR 12 to 14 brought on records as LR
of the deceased R1, vide order of this Court
dated 17.09.2013 made in M.P.Nos.3 & 4
of 2013 in CRP Sr. NO.94464/2012)

15. Kannammal

16. Vijaya

17. Gayathri

18. Sunitha

rep. by her natural Guardian
& mother Vijaya

(RR15 to 18 brought on record as LR
of the deceased R8 vide order of this
Court dated 17.09.2013 made in M.P.Nos.5
& 6 of 2013 in CRP SR.No.94464 /2012)

सत्यमेव जयते

... Respondents

Prayer :- This Civil revision has been filed under Section 115 of the Civil Procedure Code to allow the revision and set aside the order and decreetal order of the District Munsif Court, Pallipattu dated 28.01.2012 made in I.A.No.365 of 2011 in O.S.No.535 of 2001.

For petitioner : Mr. S. Karthikeyan

ORDER

This Civil Revision Petition has been filed against the order dismissing the petitioners' application to condone the delay of 2929 days in filing a petition to restore the suit.

2. The petitioners/plaintiffs filed a suit in O.S.No.210 of 1999 on the file of the District Munsiff Court, Tiruttani for declaration and also for permanent injunction. Subsequently, the suit was transferred to the District Munsiff Court, Pallipattu in the year 2001 and re-numbered as O.S.No.535 of 2001, wherein, it was found that there is a deficit in court fee and the petitioners were directed to pay the deficit Court Fee. But as the petitioners have failed to pay the same, the suit was dismissed for default on 24.04.2003. Thereafter, after a period of more than 8 years, the present application has been filed in the year 2011 to condone the delay in filing a petition to restore the suit. The trial Court by an order dated 28.01.2012 dismissed the application. Now, challenging the same, the present revision has been filed.

3. Heard the learned counsel for the petitioner and perused the materials available on records carefully.

4. The suit is of the year 1999. The petitioners were directed to pay the deficit Court fee, but they failed to do so.

Hence, the suit was dismissed for default in the year 2003. Thereafter, after more than 8 years, i.e. In 2011, the petitioners have filed an application to condone the delay in filing the restoration petition stating that the advocate has failed to inform them about the order of the Court with regard to deficit Court Fee. Even assuming that the advocate failed to inform the petitioners, it cannot be believed that the petitioners have kept quite for more than 8 years without enquiring about the pendency of the suit. Hence, the reasons stated by the petitioners are not acceptable and the Court below also after considering the materials, rightly, dismissed the application. I find no illegality or irregularity in the order passed by the Court Belo and I find no merit in the revision.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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13.02.2020

mrp

Index : Yes/No

Internet : Yes/No

Speaking order/non speaking order

To

XV Small Causes Court, Chennai

V.BHARATHIDASAN, J.,

mrp



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