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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP No. 2882 of 2021

And

C.M.P.No. 20814 of 2021

Salim Ibrahim Firdouse (Deceased)

1. Fahim Ismail Sabry
2. Farhat Omar Rabbani
3. Arif Nayeem Nihar
4. Tmt. Roshanara Firdouse
5. Tmt. Salima Hurrah Penker
6. Thiru Salman Yasser Firdouse
7. Tmt. M.K.C. Sharifa

... Petitioners/Respondents/Defendants

Vs

Tmt. Saraswathi Sampath

... Respondent/Petitioner/Plaintiff

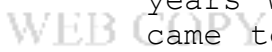
PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decreetal order dated 17.09.2021 made in I.A.No. 1 of 2020 in O.S.No. 13642 of 2010 on the file of XVII Additional City Civil Court, Chennai.

For Petitioner : M/s. Vasudha Thiagarajan

O R D E R

The defendants in O.S.No. 13642 of 2010 are on revision challenging the order in I.A.No. 1 of 2020 dated 17.09.2021 condoning a delay of 430 days in seeking restoration of the suit.

2. The plaintiff had filed a suit for recovery of possession and for permanent injunction claiming that she has purchased the property in a public auction held on 02.05.2005 and the sale deed was executed on 31.10.2005. The auction sale was by an auctioneer pursuant to the power vested in a mortgagee under Section 69 of the Transfer of Property Act.



4. It appears that the plaintiff, who is aged about 73 years was not very diligent in prosecuting the suit. The suit came to be dismissed earlier for non prosecution and the same was restored upon application. Again, when the suit was posted for trial and the plaintiff did not appear for a few hearings continuously. The Court dismissed the suit on 04.07.2019. Before that, the suit which was pending before the Adhoc Court was sent to the regular Court on 19.06.2019. Claiming that she was unable to follow the progress of the suit in Adhoc Court and the transfer to the regular Court due to her health condition and the intervening pandemic, the plaintiff sought for condonation of delay. The trial Court of-course pointed out that the plaintiff has been negligent in the conduct of the suit, it however, condoned delay with a view to provide an opportunity to the plaintiff to prosecute the suit.

6. No doubt, the grievance of the petitioners appear to be justifiable and very attractive. The suit is one for recovery of possession of a property sold in the public auction in the year 2005. After having purchased the property in a public auction in the year 2005, the plaintiff has been battling to recover possession nearly 16 years now. May be there was some slip or omission on the part of the plaintiff's also, but the trial Court has exercised its discretion considering the age of the plaintiff and condoned the delay. The confusion in the transfer of the suit from the Adhoc Court to the Regular Court vice-versa has also been taken note of by the trial Court. The intervening pandemic was also a reason for the delay.

<https://hcservices.ecourts.gov.in/hcservices/>



8. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

vsg

To:

1. XVII Additional City Civil Court,
Chennai.

2. The Section Officer,
VR Section,
Madras High Court, Chennai.

+1cc to Mr.R.Thiagarajan, Advocate SR.No.14

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MT (CO)
GMY (31/01/2022)