

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **30.06.2021**

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD).No.3056 of 2018
and C.M.P.No.17716 of 2018

1.P.Chitra
2.Madhumitha (Minor)
rep. by her mother & Natural Guardian P.Chitra

... Petitioners

Vs

1.M.Jayabalan
2.Selvi @ Selvakumari
3.Kavitha

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the Order and Decreetal Order dated 17.01.2018 made in I.A.No.619 of 2014 in O.S.No.167 of 2011 on the file of the Sub Court at Kanchipuram praying to set aside the same.

For Petitioners : Mr.P.Kamarasu

For Respondents : Mr.T.Sathiyamoorthy

ORDER

The Civil Revision Petition is filed against the Order and Decreetal Order dated 17.01.2018 made in I.A.No.619 of 2014 in O.S.No.167 of 2011 on the file of the Sub Court at Kanchipuram, thereby allowing the petition to condone the delay in filing the setting aside the exparte decree.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed a suit for partition in respect of the suit property and separate possession. Thereafter, the plaintiffs filed petition for transfer before this Court in Tr.C.M.P.No.439 of 2010 initially granted stay of further proceedings of the suit.

3. Subsequently, the transfer petition was dismissed and the suit was posted for appearance of the respondents they could not able to appear before the trial Court and as such, they were set exparte. They filed a petition to set aside the exparte decree with the delay of 371 days.

4. On perusal of the affidavit filed in support of the condone delay petition revealed that due to continuous boycott at Kancheepuram District and also due to the health issue, they could not able to engage the counsel and they were set exparte. Therefore, the Court below rightly allowed the petition. Thereafter, the suit is posted for trial and now P.W.2 is in witness box for examination and this Court finds no infirmity or illegality in the orders passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. The Trial Court is directed to dispose the suit within a period of **six months** from the date of receipt of a copy of this order. Consequently, the connected miscellaneous petition is closed. No order as to costs.

30.06.2021

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

rna

To

The Sub Court,
Kancheepuram.

G.K.ILANTHIRAIYAN. J,

rna



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