



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.03.2021

CORAM:

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P(MD)No.2685 of 2012

and

M.P(MD)No.1 of 2012

1.Govindaraj
2.Balraj
3.Ilaiyaraja
4.Dharmaraj

... Revision Petitioners/Petitioners
Plaintiffs

vs

Posangu

... Respondent/Respondent/
Defendant

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and decreetal order dated 12.10.2012 made in I.A.No.377 of 2012 in O.S.No.130 of 2009 on the file of the Sub-Court, Pudukottai.

For Petitioners : Mr.K.Baalasundaram

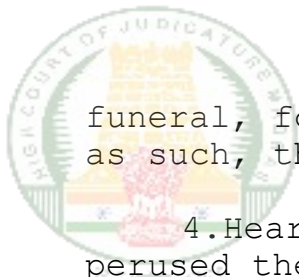
For Respondent : Mr.N.Balakrishnan

ORDER

The Civil Revision Petition is filed against the fair and decreetal order, dated 12.10.2012 made in I.A.No.377 of 2012 in O.S.No.130 of 2009 on the file of the Sub-Court, Pudukottai.

2.The revision petitioners, who are the plaintiffs in the suit, had filed a suit in O.S.No.130 of 2009, on the file of the Sub-Court, Pudukottai, for permanent injunction restraining the defendant from preventing the plaintiffs from cutting the natural manure from the suit property. The said suit was dismissed for default on 10.01.2012 and in restoring the same, there was a delay of 47 days, which was dismissed by the Sub-Court, Pudukottai. Aggrieved by the same, the revision petitioners/plaintiffs have filed the present Civil Revision Petition.

3.The plaintiffs have stated in the affidavit that on the said date the matter was listed and as the close relative of the first plaintiff had died, all the plaintiffs had to be away for the



funeral, for which reason they were not able to attend the Court and as such, the suit was dismissed for default.

4.Heard the learned counsel appearing on either side and perused the materials available on record.

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5.The said application though was resisted by the defendant, the learned Sub-Judge, Pudukottai, had dismissed the same not being satisfied with the reasons furnished by the plaintiffs. As it is only 47 days of delay in restoring the suit of the plaintiffs, no prejudice would be caused to the defendant, as has been held by the Hon'ble Supreme Court that a fair and lenient view should be taken while disposing of the delay petitions. Hence, this Court is of the view that, having satisfied with the reasons given by the revision petitioners, the delay may be condoned. Accordingly, the delay of 47 days is condoned in restoring the suit to file.

6.The learned Sub-Judge, Pudukottai, is directed to number the I.A for restoration of the suit, which was consequently dismissed and after passing orders, dispose of the suit within a period of six months from the date of receipt of a copy of this order.

7.With the above directions, the Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.



To

1.The Subordinate Judge,
Pudukottai.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai(2 copies).

Copy to

The Registrar (Judicial),
Madurai Bench of Madras High Court,
Madurai.

C.R.P (MD) No.2685 of 2012
11.03.2021

TP (CO)
TR(24.03.2021) 3P 5C