



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2021

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRP(MD)No.723 of 2020

and

CMP(MD)No.4833 of 2020

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1)Kamarunnisa
2)Barzathbhanu

... Petitioners

vs.

Mohammed Akbar

... Respondent

Prayer : Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to call for the records of the fair and executable order in I.A.No.24 of 2017 in unnumbered A.S dated 23.06.2020 on the file of the Subordinate Court, Thirumangalam, and to set aside the same and allow this Civil Revision Petition.

For Petitioner : Mr.A.Haja Mohideen
For Respondent : Mr.S.A.Ajmalkhan

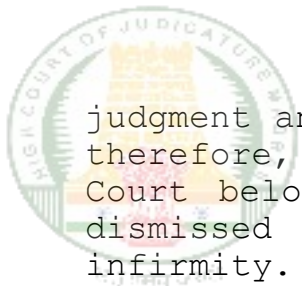
ORDER

Against the dismissal of the Section 5 application, this revision is filed.

2.The respondent/plaintiff filed a suit for mandatory injunction and permanent injunction against the petitioners/defendants which was decreed on 29.06.2016. But, since the 1st petitioner was suffering from senility and ailment and became bedridden and the 2nd petitioner who is her daughter assisted for the treatment of the 1st petitioner, they were unable to file appeal in time and filed appeal with the condone delay petition to condone the delay of 197 days. The respondent filed counter in the condone delay petition stating that the reason for the delay is unsustainable and the petitioners themselves have filed counter in E.P.No.6/2017 stating that they complied with the judgment and decree passed in the suit and therefore, nothing survives to be decided in the appeal. Considering the counter in EP that the petitioners complied the judgment and decree passed in the suit, the Court below dismissed the condone delay application, against which, this revision is filed.

3.Heard the learned counsel for the petitioners as well as the respondent.

4.Perusal of record shows that the suit has been decreed in favour of the respondent on 29.06.2016 and I.A.No.24/2017 has been filed to condone the delay of 197 days in filing the Appeal Suit. Perusal of record further shows that the revision petitioners/defendants have filed counter in E.P.No.6/2017 filed by the respondent/plaintiff, stating that they complied with the



judgment and decree of the trial Court passed in the above suit and therefore, nothing survives in the appeal to be decided and the Court below rightly observing that it is only a futile exercise, dismissed the condone delay application, where I do not find any infirmity.

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

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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

The Subordinate Judge,
Thirumangalam.

+1 CC to M/s.S.A.AJMAL KHAN, Advocate (SR-7087[F] dated 25/02/2021)

CRP(MD)No.723 of 2020

DATED : 24.02.2021

SV2 (CO)

KB(08.03.2021) 2P 3C