



C.R.P(PD).No.1273 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 27.06.2022**

**CORAM :**

**THE HONOURABLE MS. JUSTICE R.N.MANJULA**

**C.R.P.(PD).No.1273 of 2022**  
**and C.M.P.No.6839 of 2022**

1.S.Rajasekaran  
2.R.Kamalaveni

... Petitioners

..Vs..

1.R.Dhara  
2.Minor Aravindharaja  
3.Minor S.Akshayaa  
V.Srinivasan (Deceased)  
4.S.Seeniammal  
5.S.Venkatesh  
6.S.Umadevi

... Respondents

**Prayer:-** Civil Revision Petition is filed under Article 227 of Constitution of India, against the fair and decretal order in I.A.No.3 of 2021 in O.S.No.5275 of 2019 on the file of the learned V Additional City Civil Court, Chennai, dated 18.03.2022.

For Petitioners : Mr.B.Senthilkumar

For Respondents : Mr.S.S.Mathivanan for R1 to R3  
Mr.N.K.Ponraj for  
Mr.P.Srinivas for R4 & R5



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ORDER

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This Civil Revision Petition has been preferred challenging the order of the learned V Additional Judge, City Civil Court, Chennai, dated 18.03.2022 made in I.A.No.3 of 2021 in O.S.No.5275 of 2019.

2.The revision petitioners are the defendants 1 and 2 and the respondents 1 to 3/plaintiffs have filed a suit against the defendants 1 to 6 for recovery of money. The defendants 1 and 2 did not file their written statement and they were set ex-parte on 05.02.2020. Later, they filed a petition in I.A.No.3 of 2021 to set aside the ex-parte order and the same was dismissed. Aggrieved over that, the petitioners/defendants 1 and 2 have preferred this revision petition.

3.The learned counsel for the petitioners submitted that they are the only contesting defendants in the suit and if they are given with an opportunity to contest the case on merits, no prejudice would be caused to the plaintiffs' and that the non appearance of the defendants 1 and 2 is neither willful nor wanton; without considering the interest of justice, the



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learned trial Judge had taken a rigid view and hence the impugned order should be reversed.

4.The conduct of the petitioners as it appears from record would only show that he is doing only delay making tactics. The learned trial Judge has rightly observed that in the year 2017, there was no Covid pandemic and hence the reasons assigned by the petitioners are not valid. The reason of Covid is not applicable to the period in which the petitioners committed default. Considering the pendency of the suit, the learned trial Judge could have practically viewed the situation and allowed the petition in order to enable the contesting parties to contest the suit on merits. Only for this limited reason, I feel that some indulgence can be shown in allowing the revision petitioner to participate in the trial and in order to facilitate the same, the ex-parte order passed against the defendants 1 and 2 can be set aside on terms.



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5. Due to the default on the part of the petitioners/defendants 1 and 2, the respondents 1 to 3/plaintiffs should not have been allowed to suffer hardship and hence the plaintiffs have to pay a costs of Rs.3,500/- (Rupees Three Thousand Five Hundred only).

6. With the above observations, the Civil Revision Petition is allowed on payment of cost of Rs.3,500/- to the respondent on or before 10.07.2022, failing which this petition will stand automatically dismissed. The order of the learned V Additional Judge, City Civil Court, Chennai, dated 18.03.2022 made in I.A.No.3 of 2021 in O.S.No.5275 of 2019, is hereby set aside. Consequently, connected Miscellaneous Petition is closed.

7. Post the matter on 11.07.2022 under the caption “for reporting compliance”.

**27.06.2022**

vr  
Index: Yes No  
Speaking Order: Yes/No



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To

- 1.The V Additional Judge,  
City Civil Court,  
Chennai.
- 2.The Section Officer,  
VR Section, Madras High Court,  
Chennai.



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**R.N.MANJULA,J.**

Vkr

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**27.06.2022**