



CRP.No. 1493 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2022

CORAM:

THE HON'BLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No. 1493 of 2019

- 1.Prema
- 2.Nagarathnama
- 3.Pomani
- 4.Nagamma

..
Petitioners

Versus

- 1.Veeranna
- Gurunanjappa (since deceased)
- Mahadevasamy (since deceased)
2. Gangamma
3. Minor Dinesh
4. Minor Nandhesh
5. Minor Lakshmi
- [Minors 3 to 5 represented by their
next friend and natural guardian and
mother Gangamma]

...Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and final order dated 08.01.2019 made in I.A.No. 89 of 2018 in A.S.C.F.R.No.6890 of 2018 on the file of the Subordinate Judge, Sathyamangalam, Erode District.



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For Petitioners : Mr.V.Rajesh

For Respondents : No Appearance

ORDER

This Civil Revision Petition has been filed to set aside the fair and final order dated 08.01.2019 passed in I.A.No.89 of 2018 in A.S.C.F.R.No.6890 of 2018 on the file of the Subordinate Court, Sathyamangalam, Erode District.

2. The revision petitioners are the defendants and the 1st respondent is the plaintiff in the original suit proceedings.

3. The learned counsel appearing for the revision petitioners/defendants submitted that the reason was properly explained by the revision petitioners to condone the delay of 958 days in filing the appeal as stated by their affidavit, but the appellate Court has failed to appreciate the facts. In fact, the revision petitioners herein are illiterate women and they are hailing from a remote village and they are not aware



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of the legal proceedings. Therefore, he seeks one more opportunity has to be given to the revision petitioners/defendants to prove their case by filing an appeal and therefore, he prays to allow this revision.

4. There is no representation on behalf of the 1st respondent/plaintiff.

5. On a perusal of the records, it reveals that the first respondent/plaintiff filed the suit in O.S.No. 203 of 2012 before the District Munsif, Sathyamangalam, Erode District, for declaration and permanent injunction against the petitioners/defendants. After perusing the relevant records, the suit was partly decreed in favour of the 1st respondent/plaintiff by judgment and decree dated 06.10.2015. Aggrieved by the same, the revision petitioners/defendants have preferred an appeal.

6. The revision petitioners/defendants filed I.A.No.89 of 2018 under Order 41 Rule 3(A) r/w Section 151 CPC., and Section 5 of the Limitation Act, seeking to condone the delay of 958 days in filing the appeal in A.S.C.F.R.No.6890 of 2018 on the file of the Subordinate Court,



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Sathyamangalam, Erode District. After perusing the records, the appellate Court dismissed the said application on the ground that "sufficient reason" was not assigned properly by the 1st respondent/plaintiff.

7. The learned counsel appearing for the revision petitioners/defendants contended that the petitioners/defendants herein are illiterate women and they are rustic and hailing from a remote village with inadequate knowledge about the legal proceedings and they could not even contact their counsels. Therefore, there is a delay of 958 days in filing the appeal and hence, they could not prefer an appeal in time, but the appellate Court had failed to appreciate the facts narrated by the revision petitioners in their affidavit.

8. On considering the submissions made by the learned counsel appearing for the revision petitioners/defendants, this Court is inclined to grant one more opportunity to the revision petitioners/defendants to defend their case and if the opportunity is not given to the revision petitioners/defendants to canvass all the points raised before the appellate Court, the revision petitioners will be put to irreparable loss and hardship



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and no prejudice would be caused to the 1st respondent/plaintiff if this revision is allowed. Hence, this Court is inclined to allow this revision and the same is liable to be allowed.

9. Accordingly, the Civil Revision Petition is allowed. The trial Court is directed to number the appeal in A.S.C.F.R.No. 6890 of 2018 on the file of the Subordinate Court, Sathyamangalam, Erode District, and to dispose of the same within a period of six months from the date of receipt of a copy of this order. There shall be no order as to costs.

19.10.2022

msm

Index : Yes/No

Speaking Order : Yes/No

To

1. The Subordinate Judge,
Sathyamangalam, Erode District.
2. The Section Officer, V.R.Section
High Court, Madras.



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T.V.THAMILSELVI, J.

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