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C.R.P.(PD) No.2883 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.09.2022

CORAM:

THE HON'BLE Mr. JUSTICE S.SOUNTHAR

C.R.P(PD) No.2883 of 2022

1. Vadivelu

2. Arumugam

... Petitioners

Vs.

Cadirvel @ Raja

... Respondent

Prayer:

Civil Revision Petition filed under Section 227 of the Constitution of India, to set aside the order and decreetal order dated 19.03.2022 made in I.A.No.19 of 2021 in un-numbered C.M.A.No.-- of 2021 on the file of the Court of the Principal District Judge, Villupuram.

For Petitioner : Mr.T.Dhanasekaran



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ORDER

WEB COPY This Civil Revision Petition is filed against the order dated 19.03.2022, passed by the learned Principal District Judge, Villupuram, dismissing the application in I.A.No.19 of 2021 filed by the Revision Petitioners to condone the delay of 667 days in filing the Civil Miscellaneous Appeal.

2. The respondent herein filed a suit in O.S.No.80 of 2021 on the file of the District Munsif Court, Vanoor against the Revision Petitioners. The said suit was decreed on merits on 07.06.2004. Aggrieved by the same, the Revision Petitioners filed First Appeal in A.S.No.6 of 2005 on the file of the Principal Subordinate Court, Tindivanam and the same was dismissed for default on 21.09.2005. Thereafter, the Revision Petitioners filed the petition to restore the Appeal along with the petition to condone the delay in filing the restoration application. The said petitions were returned by the Court for certain defects and there was delay of 1072 days in representing the applications. Thereafter, the Revision Petitioner filed the petition to condone the delay in representation and the said petition was dismissed by



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the First Appellate Court. Challenging the order of dismissal, the Revision Petitioner preferred Revision Petition before this Court and the same was dismissed on merits. Therefore, the order rejecting the restoration application had become final. Subsequently, the petitioners again filed an application in I.A.No.46 of 2015 for restoration of Appeal under Section 151 Cr.P.C., The second application filed by the Revision Petitioners came to be dismissed by the First Appellate Court on 28.03.2018 and the said order was challenged by the Revision Petitioners by filing an appeal in unnumbered Civil Miscellaneous Appeal before the Principal District Court, Villupuram with a delay of 667 days in filing the above appeal. In the affidavit filed in support of the petition to condone the delay of 667 days, the petitioners have not explained the delay by giving any valid reason. In their affidavit, they had stated that the order on application for condoned delay was passed on 28.03.2018 and they filed copy application on 23.04.2018 and the copies were delivered to them on 10.05.2018 and they presented the Civil Miscellaneous Appeal only during February 2020 instead of 15.05.2018. They had not stated any valid reason explaining the delay that occurred during the period from May 2018 to February 2020.



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The Court below, on perusal of the affidavit, rightly dismissed the condone delay petition on the ground that the petitioners had not given any valid reason to condone the delay. The Court below had also taken into consideration that the petition for restoration of first appeal was already rejected and the present attempt by the Revision Petitioner is the second one by filing another application by invoking inherent powers of the Court. Taking into consideration the previous conduct of the Revision Petitioners, the Court below decided not to exercise its discretionary power in favour of the petitioners.

3. This Court does not find any illegality or irregularity in the order dated 19.03.2022, passed in I.A.No.19 of 2021 on the file the learned Principal District Judge, Villupuram. Hence, Civil Revision Petition is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs.

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S.SOUNTHAR, J.

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To

The Principal District Judge,
Principal District Court,
Villupuram.

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