



CRP No.3604, 3585, 3596, 3587 and 3607 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07-12-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

CRP Nos.3604, 3585, 3596, 3587 and 3607 of 2022

1.B.Rajan (Since Deceased)
Represented by his Power of Attorney Agent
R.Haldurai, S/o.Late B.Rajan

2.Mrs.Mathiammal

3.R.Malliga

4.R.Haldurai

5.B.R.Sevanan

6.R.Jothi .. Petitioners in all CRPs

vs.

1.M.Rangan

2.K.B.Bhojan

3.K.B.Devaraj .. Respondents in all CRPs

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CRP No.3604 of 2022 is filed under Article 227 of the Constitution of India against the fair order and decretal order dated 22.07.2022 passed in IA No.1 of 2022 in A.S.No.19 of 2017 on the file of the learned District Judge of Nilgiris, Udhagamandalam.

CRP No.3585 of 2022 is filed under Article 227 of the Constitution of India against the fair order and decretal order dated 08.07.2022 passed in IA No.2 of 2022 in A.S.No.19 of 2017 on the file of the learned District Judge of Nilgiris, Udhagamandalam.

CRP No.3596 of 2022 is filed under Article 227 of the Constitution of India against the fair order and decretal order dated 22.07.2022 passed in IA No.3 of 2022 in A.S.No.19 of 2017 on the file of the learned District Judge of Nilgiris, Udhagamandalam.

CRP No.3587 of 2022 is filed under Article 227 of the Constitution of India against the fair order and decretal order dated 22.07.2022 passed in IA No.2 of 2022 in A.S.No.19 of 2017 on the file of the learned District Judge of Nilgiris, Udhagamandalam.



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CRP No.3607 of 2022 is filed under Article 227 of the Constitution of India against the fair order and decretal order dated 08.07.2022 passed in IA No.1 of 2022 in A.S.No.19 of 2017 on the file of the learned District Judge of Nilgiris, Udthagamandalam.

For Petitioners in all CRPs : Mr.Surya Teja SS Nalla

For Respondents in all CRPs : Notice Served. No Appearance.

ORDER

All these Civil Revision Petitions are filed challenging the fair and decretal orders respectively dated 22.07.2022, 08.07.2022, 22.07.2022, 22.07.2022 and 08.07.2022 in I.A.Nos.1, 2, 3, 2 and 1 of 2022 in A.S.No.19 of 2017.

2. The learned District Judge, Nilgiris District dismissed the Interlocutory Applications filed by the revision petitioners on the ground that the cost was not paid and there was no representation on behalf of the petitioners when the matter was taken up for hearing. On account of the mistake committed by the Lawyer, the litigant cannot be made to suffer



unnecessarily.

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3. In all these cases, it is contended that the sole appellant passed away on 28.04.2021 and on account of Covid 19 Pandemic, the Hon'ble Supreme Court of India passed an order in suo motu writ petition vide WP No.3 of 2020 excluding the period of limitation for institution of cases till 28.02.2022. Accordingly, the last date for bringing on record of the deceased sole appellant in all these cases was 30.05.2022.

4. The learned counsel for the petitioners states that the IA No.3 of 2022 was filed on 20.09.2021 to bring the legal heirs on record. Since the sole appellant died on 28.04.2021, the District Court allowed the Interlocutory Application on costs. The petitioners paid the cost amount also and complied with the conditions and a memo was filed on 15.07.2022 before the District Court.

5. While-so without considering the facts and circumstances,



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the District Court dismissed the Interlocutory Application on the ground that the cost was not paid and there was no representation. Probably, an order was passed, since there was no representation on the part of the petitioner before the District Court. However, on account of such technical grounds, the litigant may not be deprived of his right to establish the case on merits and in accordance with law. Since it is a condonable mistake, this Court is inclined to consider all these Civil Revision Petitions.

6. Accordingly the orders respectively dated 22.07.2022, 08.07.2022, 22.07.2022, 22.07.2022 and 08.07.2022 passed by the learned District Judge of Nilgiris, Udthagamandalam in I.A.Nos.1, 2, 3, 2 and 1 of 2022 in A.S.No.19 of 2017 stand set aside and all these Civil Revision Petitions stand allowed. However, there shall be no order as to costs.

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Speaking Order/Non-Speaking Order.

Internet : Yes/No.

Index: Yes/No.

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S.M.SUBRAMANIAM, J.

Svn

To

The District Judge,
Nilgiris,
Udhagamandalam.

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