



WEB COPY

CRP(MD).No. 957 of 2020 and

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

CRP(MD).No. 957 of 2020 and

CMP(MD).No.6227 of 2020

1. Selvaraj

2. D. Vijayarani

.. petitioners/Respondnts/
Defendants

Vs.

1.S. Pathirakali

2.S.Sabarikanthan

3.S.Veeriyachandran

4.S.Santhiya Duraichi

.. Respondents/petitioners/
Plaintiffs

Prayer: This Civil Revision Petition is filed under Article 115 of the Civil Procedure Code, 1908 against the fair and decreetal order dated 06.03.2020 made in I.A.No.489/2017 in I.A.No.399 of 2016 in O.S.No.353 of 2008 on on the file of the Additional District Munsif, Thenkasi.

For Petitioner ... Mr. D.Vijay Antony

For R1 to R4 ... Mr. Nireshkumar

ORDER

The revision Petitioner filed this revision to set aside the order, dated 06.03.2020 made in I.A.No.489 of 2017 in I.A.No.399 of 2016 in O.S.No.353 of 2008 on on the file of the Additional District Munsif, Thenkasi.

2. Heard the learned counsel appearing on either side and perused the materials available on record.

3. Originally, the suit in O.S.No.353 of 2008 was filed by the respondents / plaintiffs for declaration and injunction and the same was dismissed for default on 05.03.2014. Thereafter, the respondents filed I.A.No.399 of 2016 to restore the suit, which was also dismissed for default on 10.08.2016. To condone the delay in filing the restoration petition in I.A.No.399 of 2016, they have filed I.A.No.489 of 2017 on the ground that the 1st respondent / petitioner was suffered by jaundice so the delay has occurred. The said Interlocutory Application was allowed by the trial Court on cost of Rs.500/-. Aggrieved by this order, the petitioners / defendants filed this revision.

4. Already, suit was dismissed for default. Again, restoration petition was also dismissed for default. To condone the

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delay in filing the restoration petition, I.A.No.489 of 2017 was filed with a delay of 376 days on the only ground that the first plaintiff suffered with jaundice and the same was allowed with a cost of Rs.500/-. There are some other plaintiffs are also there. There is no explanation for non appearance of other plaintiffs 2 to 4 and each and every delay has not been explained. Since the suit is for declaration this Court is inclined to restore the above said suit but on cost of Rs.5,000/- (Rupees Five Thousand only) to the petitioners / defendants.

5. With the above observations, this Civil Revision Petition is disposed of. The respondents / plaintiffs are directed to to pay Rs.5,000/- (Rupees Five Thousand only) to the petitioners / defendants within a period of 15 days from the date of receipt of a copy of this order.

6. Since the suit is pending from 2008, after restoring the suit, the Additional District Munsif, Tenakasi is directed to dispose of the suit in O.S.No.353 of 2008 within a period of three months from the date of receipt of a copy of this order. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Deputy Registrar (Accounts)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

trp

To

The Additional District Munsif, Thenkasi.

Copy to

The Registrar(Judicial),
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.D.VIJAYA ANTONY, Advocate (SR-8636[F] dated 25/02/2022)

CRP(MD).No. 957 of 2020 and
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24.02.2022

RK(18/03/2022) 2P 4C