



CRP PD(MD)No.2309 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 24.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP PD(MD) No.2309 of 2022

1.Suganthy

2.Babu

3.Titus

... Petitioners

Vs

1.M.T.Godwin

2.M.T.Delvin

3.M.T.Thayajini

4.P.Vasanth Bai

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 01.09.2021 passed in I.A.No.15 of 2020 in A.S(SR) No.41 of 2020, on the file of the Subordinate Judge, Eraniel.

For Petitioners

: Mr.C.S.Lenin

For Respondents

: Mr.H.Arumugam



CRP PD(MD)No.2309 of 2022

WEB COPY

ORDER

This Civil Revision Petition is filed as against the fair and decreetal order passed by the learned Subordinate Judge, Eraniel in I.A.No.15 of 2020 in A.S(SR) No.41 of 2020, dated 01.09.2021.

2.These Revision Petitioners are the defendants in O.S.No. 284 of 2004, which was filed by the respondents/plaintiffs for the relief of declaration and for permanent injunction. The said suit was decreed on 27.01.2014. As against the judgment and decree passed in O.S.No. 287 of 2004, these petitioners/defendants preferred an appeal with a delay of 1889 days. The application filed by the petitioners, under Section 5 of Limitation Act to condone the delay of 1889 days was dismissed by the learned Subordinate Judge, Eraniel, by its fair and decreetal order dated 01.09.2021 and the same is under challenge in this Civil Revision Petition.



CRP PD(MD)No.2309 of 2022

WEB COPY

3.The learned counsel appearing for the petitioners submits that the petitioners 1 & 3 were not mentally sound and therefore there is some difficulty in preferring the appeal in time and if the delay is not condoned, it will create irreparable loss to the petitioners.

4.The learned counsel appearing for the respondents submits that originally the suit in O.S.No.284 of 2004 was filed in the year 2004 and after struggling 10 long years, the suit was decreed in favour of the respondents on 27.01.2014. Challenging the same, the petitioners /defendants filed an appeal with a huge delay of 1889 days and also the reasons assigned by them for such a delay are not acceptable. Hence, the order of the trial Court in rejecting the claim of the petitioners needs no interference.

5.Heard the learned counsel on either side and perused the



CRP PD(MD)No.2309 of 2022

materials placed on record.

6. The respondents/plaintiffs filed a suit in O.S.No.284 of 2004, before the Principal District Munsif, Eraniel, for the relief of declaration and for permanent injunction. The said suit was decreed on 27.01.2014. The petitioners/defendants preferred the appeal with a delay of 1889 days, which was dismissed on 01.09.2021. The reason stated by the petitioners for such an inordinate delay of 1889 days is that the first and third petitioners are not mentally sound. Though the petitioners have taken a plea that the petitioners 1 and 3 are not mentally sound, it is revealed from the records that the first defendant filed a written statement in the suit and she has taken a specific plea that the petitioners 2 & 3 are also necessary party to the suit and on her application only, the petitioners 2 & 3 were impleaded as parties to the suit. Moreover, the third defendant also filed the written statement. The contention of the petitioners that the petitioners 1 and 3 are not mentally sound was not substantiated with any relevant documents.



CRP PD(MD)No.2309 of 2022

WEB COPY

7.In view of the above, there is no reason to interfere with the order of the first Appellate Court. Accordingly, this Civil Revision Petition is dismissed. No costs.

24.11.2022

Internet : Yes

Index : Yes / No

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To

The Subordinate Judge, Eraniel.



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CRP PD(MD)No.2309 of 2022

B.PUGALENDHI, J.

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Order made in
CRP PD(MD) No.2309 of 2022

24.11.2022