



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 27.04.2022
CORAM

THE HONOURABLE MRS.JUSTICE S. ANANTHI

WEB COPY

CRP (MD) .No.1720 of 2021

1.Sudalaimuthu
2.M.Veerapandi
3.M.Muthpattan
4.M.Kandasamy

.. Petitioners/Petitioners/Appellants

Vs.

1.Anthonymmal
2.Selvi
3.Muthu Madathi
4.M.Madasamy
5.Lakshmi
6.P.Periya Muthiah
7.M.Periya Madasamy
8.M.Chinna Madasamy
9.Esakkiammal
10.Madathi
11.Packiyathai
12.Seethalakshmi
13.Mariselvi
14.Meena
15.Minor. Mathiselvi
16.Mariselvi
17.Madan
18.Murugan

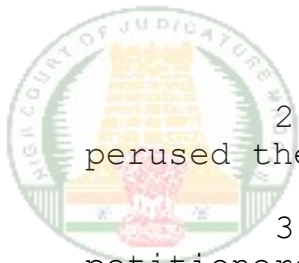
.. Respondents/Respondents/Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.1 of 2020 in Unregistered A.S(SR).No.7717 / 2020, dated 23.07.2021 on the file of the Principal District Court, Tirunelveli.

For Petitioners : Mr. H.Arumugam
For Respondents : Mr.D. Srinivasa Ragavan

ORDER

The revision petitioners / appellants filed this revision to set aside the order, dated 23.07.2021 passed in I.A.No.1 of 2020 in Unregistered A.S(SR).No.7717 / 2020, on the file of the Principal District Court, Tirunelveli.



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

3. The said I.A.No.1 of 2020 was filed by the revision petitioners / appellants to condone the delay of 345 days in filing the appeal. Originally, the the suit was dismissed for non-joinder of necessary party. The respondents / plaintiffs have filed subsequent suit in O.S.No.295 of 2019 and the petitioners / defendants also appeared on 18.11.2019 in the subsequent suit and on 10.02.2020, they were set ex parte. After four months, they have filed the said Interlocutory Application to condone the delay of 345 days in filing the appeal. Even though the reasons stated in the petition is not valid since the appeal is the right of the parties, the reasons stated for the delay condonation is also valid and hence, the said Interlocutory Application has to be allowed.

4. Since the suit was dismissed, but, one issue was framed and answered against the revision petitioners / appellants, it is necessary to file an appeal against that finding. Without, setting aside the findings, the revision petitioners / appellants cannot file subsequent suit for the same issue. Hence, one opportunity to be given to the revision petitioner.

5. Accordingly, this Civil Revision Petition is allowed by setting aside the order, dated 23.07.2021 passed in I.A.No.1 of 2020 in Unregistered A.S(SR).No.7717 of 2020, on the file of the Principal District Court, Tirunelveli. The Principal District Court, Thirunelveli is directed to number the appeal if it is otherwise in order. No costs.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

To

The Principal District Judge, Tirunelveli.

+1 CC to M/s.D. SRINIVASARAGAVAN, Advocate (SR-21738[F] dated 27/04/2022)

+1 CC to M/s.H.ARUMUGAM, Advocate (SR-22921[F] dated 29/04/2022)

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27.04.2022

_SS/25.05.2022 : 2P/4C