



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P (MD)No.1927 of 2021 &CMP (MD)No.10375 of 2021

WEB COPY

1.A.Rajkumar
2.R.Arokiyammal

... Petitioners/Petitioners
/Defendants No 4&5

Vs.

1.R.Hemalatha Santhimary
2.R.Xavier Sebasthi Vasantha
3.S.Jenitha
4.S.Leeander Stalin
5.A.Selvakumar
6.Jothi

...1st Respondent/1st
Respondent/Plaintiff

... Respondents 2 to 6/
Respondents 2 to 6 /
Defendants 1,2,3,6,7

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and executable order dated 23.01.2020 in IA.No.243/2019 in OS.No.85/2013 on the file of the District Munsif Court, Periyakulam.

For Petitioners	:	Mr.R.Suriyanarayanan
For Respondents	:	Mr.N.Marimuthu for R1 R2 to R6 - given up

ORDER

The revision petition is filed by the defendants 4 and 5 to set aside the order dated 23.01.2020 in IA.No.243/2019 in OS.No.85/2013 on the file of the District Munsif Court, Periyakulam.

2. IA.No.243/2019 was filed by the petitioners / defendants 4 and 5 to set aside the exparte order passed in the suit in OS.No.85/2013 on 14.03.2014. The learned District Munsif, Periyakulam had dismissed the IA on 23.01.2020 on the ground that IA was filed 5 years and 4 months after the date of exparte order and the reason for the delay in filing IA was not properly explained by the petitioners / defendants 4 and 5. Challenging the same, the petitioners have come up with this revision.

3. Heard both sides and perused the materials on record.

4. In the suit in OS.No.85/2013, summons were served on the petitioners / defendants 4 and 5 and it was posted for filing of



written statement on 14.03.2014. Since written statement was not filed on 14.03.2014, the petitioners / defendants 4 and 5 were set *exparte* in the suit. After a lapse of five years and 4 months, the petitioners / defendants 4 and 5 have filed IA.No.243/2019. As per the affidavit filed in IA.No.243/2019, the second petitioner / 5th defendant was unwell and hence she could not attend the hearing before the Court. Further, it has also been stated in the affidavit that both the petitioners / defendants 4 and 5 went to Thiruppur for job and hence they could not attend the hearing before the Court. Both the reasons adduced by the petitioners / defendants 4 and 5 in the affidavit are *contra* to each other. The inordinate delay in filing the petition was not properly explained by the petitioners. Hence, the learned District Munsif, Periyakulam was right in dismissing the IA. This Court finds no valid reason to interfere with the findings rendered by the learned District Munsif, Periyakulam.

5. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed. The order dated 23.01.2020 in IA.No.243/2019 in OS.No.85/2013 on the file of the District Munsif Court, Periyakulam is hereby confirmed.

Sd/-

Assistant Registrar (AD-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

The District Munsif, Periyakulam.

+1 CC to M/s.N.MARIMUTHU, Advocate (SR-4961[F] dated 09/02/2022)

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SRR(CO)

KB(25.02.2022) 2P 3C