



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.09.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

CRP.No.620 of 2009

- 1.V.Krishnan (died)
- 2.Sundara Kannan
- 3.K.Mani
- 4.S.Kalaiselvi
- 5.M.Sasikala
- 6.M.Harini
- 7.M.Monika
- 8.V.Revathi

... Petitioners

(1st petitioner died. Petitioners 3 to 8 are brought on record as LRS of the deceased first petitioner vide Court order dated 27.09.2023 made in C.M.P.No.22568, 22570 and 22572 of 2023 in C.R.P.No.620 of 2009)

Vs

- 1.Thangapandi (died)
- 2.Sundarakannan
- 3.M.Krishnaveni
- 4.K.Vijayakumari
- 5.L.M.Murugesan
- 6.G.Muthuselvi
- 7.L.Venkatesan

... Respondents

(Sole respondent died. Respondents 2 to 7 are brought on record as LRS of the deceased sole respondent vide Court order dated 27.09.2023 made in C.M.P.Nos.22573 to 22575 of 2023)



PRAYER: Civil Revision Petition filed under Section 115 of C.P.C, against the fair and decretal order dated 04.04.2006 made in I.A.No.21365 of 2005 in I.A.No.21366 of 2005 in O.S.No.3148 of 1986 on the file of the XV Assistant City Civil Court, Chennai.

For Petitioners : Mr.N.Srinivasalu
For Respondents : Mr.P.C.Harikumar

ORDER

This revision arises against an order of dismissing an application under Section 5 of the Limitation Act. O.S.No.3148 of 1986 was presented before the XV Assistant City Civil Court, Chennai. The suit is one for recovery of possession. Prior to the suit, between the very same parties, R.C.O.P was filed in HRC.No.3313 of 1978 on the file of XII Court of Small Causes, Chennai, which was subsequently transferred to the learned District Munsif, Poonamallee. Since the Rent Control petition was dismissed, the present suit came to be filed. A written statement was filed on 16.10.1986. From 1986 till 14.11.2003, the suit was languishing without any progress. The affidavit to condone the delay itself concedes that several opportunities were given to the defendants, but the defendants did not appear before the Court at all. Being left with no other option, the Court proceeded to pass an ex-parte judgment.



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2. To set aside the same, an application was presented in I.A.No.21365 of 2005. The reason given in the said application is that the counsel did not inform the stage of the case to the defendants. Apart from this reasoning, no other reason has been given for condoning the delay of 690 days in filing the application to set aside the ex-parte decree.

3. I have gone through the affidavit and I do not find any reason to condone the enormous delay of 690 days. When the litigation is pending between the parties from 1978, it is expected that the party would follow up the case, by not merely relying upon only the statement of the lawyer. The suit having gone to an ex-parte decree, the petitioner is now blaming his lawyer for the purpose of condonation of delay. That is not a sufficient cause and it has been rightly dismissed by the trial Court. I do not find any illegality or irregularity in the order passed by the trial Court.

4. Hence, this Civil Revision Petition is dismissed. No costs.

27.09.2023

Index:Yes/No

Speaking order/Non-speaking order

vkrr



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V.LAKSHMINARAYANAN,J.,

vkrr

To :

The XV Assistant Judge, City Civil Court, Chennai.

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