



C.R.P. No. 410 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :10.08.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
C.R.P. No. 410 of 2022

K. Natarajan

...Petitioner

.Vs.

V. Chokkalingam (died)

1. Sulochana

2. Jayachandran

3. Magesh

4. Jayanthi

..Respondents

Prayer: This Civil Revision Petition is filed under Article 115 of the Civil Procedure Code, praying to set aside the order and decree dated 04.10.2021, made in I.A.No.1 of 2021 in O.S.No.283 off 2009 on the file of District Munsif Court, Gudiyattam, Vellore District by allowing the present Civil Petition and pass orders.



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For Petitioner : Mr.A. Gouthaman

For Respondents : No Appearance

ORDER

This petition is filed seeking a direction to set aside the order and decree dated 04.10.2021, made in I.A.No.1 of 2021 in O.S.No.283 of 2009 on the file of District Munsif Court, Gudiyattam, Vellore District.

2. The facts of the case is that the respondents herein has filed a petition in I.A.No.1 of 2021 in O.S.No.283 of 2009 under Section 5 of Limitation Act to order to condone the delay of 1867 days in filing application to set aside the ex-parte decree dated 06.06.2013 passed against the petitioner/defendant in the above suit and permit the petitioner to contest the case and the same was allowed vide order dated 04.10.2021. Aggrieved over the same the petitioner has come up with petition.

3. The learned counsel for the petitioner submitted that the respondents have not filed any single document for the reason for delay and



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the same was not taken note by the learned Judge and he has allowed the petition mechanically.

4. On a perusal of records it is seen that the petitioner herein has filed the suit in the year 2009 directing one V. Chokkalingam(died)/defendant to perform his part of the contract and execute and register the sale deed of the schedule mentioned property at the cost of the plaintiff and to deliver the possession and enjoyment of the schedule property and seeking permanent injunction restraining the defendants from alienating the schedule mentioned property to any third party. However, due to non appearance of the defendant the suit was dismissed for default on 06.06.2013. Hence, the legal heirs have filed the above I.A seeking to set to set aside the ex-parte order and the said I.A was also allowed on 04.10.2021. However, the respondents herein have not contested their case in the O.S, hence the I.A was allowed by providing an opportunity to the respondents to defend their case.



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5. In view of the above, the learned District Munsif Court, Gudiyattam, Vellore District, is directed to dispose of the suit in O.S.No.283 of 2009 on merits and in accordance with law within a period of three months from the date of receipt of a copy of this order.

8. With the above directions, this Civil Revision Petition is disposed of. No order as to costs. Consequently, the connected miscellaneous petition is closed.

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smn
Index : Yes/No
Internet: Yes/No

To.
1. The District Munsif Court, Gudiyattam, Vellore District



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V.BHAVANI SUBBAROYAN,J.
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