



WEB COPY



CRP.No.3051 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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1.Gopal Gounder

2.Seva Ammal

... petitioners

Vs.

1.Kasava Gounder

2.Velmurugan

3.Anandayee Ammal

4.Sadachi Ammal

5.Ayyakannu

6.Malar Ammal

... Respondents

PRAYER:

Civil Revision Petition filed under Section 115 of CPC to set aside the fair and decretal order dated 23.03.2016 in IA.No.1399 of 2015 in OS.No.292 of 2011 on the file of the Principal District Munsif, Ulundurpet.

For Petitioners : Mr.R.Ganesh Kumar

For Respondents: No Appearance

ORDER

This civil revision petition has been filed to set aside the fair and decretal order dated 23.03.2016 in IA.No.1399 of 2015 in OS.No.292 of 2011 on



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the file of the Principal District Munsif, Ulundurpet, thereby dismissed the petition to condone the delay of 549 days in filing the petition to restore the suit.

2. Heard, the learned counsel for the petitioners. Though notice was served, no one appeared on behalf of the respondents before this court in person or through pleader.

3. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed suit for declaration and injunction. When the suit was ripe for trial, the petitioners were absent before the trial court and as such, the suit was dismissed for default. Hence, the petitioners filed application to restore the suit. While filing the restoration application, there was a delay of 549 days in filing the petition to restore the suit.

4. On perusal of the affidavit filed in support of the condone delay application, revealed that they had gone to other state for their employment. Therefore, this Court is of the view that since the petitioners are the plaintiffs, they may be given one more opportunity to proceed with their suit. The petitioners are also ready and willing to pay some cost in order to compensate the prejudice caused to the respondents herein.



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5. In view of the above, the fair and decretal order dated 23.03.2016 in

IA.No.1399 of 2015 in OS.No.292 of 2011 on the file of the Principal District Munsif, Ulundurpet is set aside and this civil revision petition is allowed on condition that the petitioners shall jointly pay a sum of Rs.5,000/- (Rupees Five Thousand only) directly to the respondents within a period of two weeks from the date of receipt of copy of this order. On such payment, the court below is directed to restore the suit and proceed with the same. There shall be no order as to costs.

25.01.2023

Speaking/non-speaking

Index : Yes/No

Internet : Yes

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G.K.ILANTHIRAIYAN, J.

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To
The Principal District Munsif,
Ulundurpet.

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