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CRP(NPD)No.240



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.2406 of 2018

1.Selvi
2.Vijaya
3.Lokanathan
4.L.Rajaganapathi
5.Sangeetha
6.Kumaresan

... Petitioners

Vs.

1.Perumayi Ammal
2.Jegannathan
3.Krishnan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 19.09.2017 made in I.A.No.529 of 2016 in O.S.No.143 of 2011 on the file of the District Munsif Court, Hosur.

For Petitioners : Mr.G.Surya Narayanan

For Respondents : Mr.R.Dhanasekar
for Mr.R.Thamaraiselvan

ORDER

Heard the learned counsel for the petitioners and the learned counsel for the respondents. I have carefully gone through the records.



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2. The plaintiff/1st respondent presented O.S.No.143 of 2011 on the file of the learned District Munsif, Hosur, for the purpose of declaration and injunction. The said suit was decreed exparte on 18.04.2016. To set aside the exparte decree, an application was filed by the civil revision petitioners/defendants in I.A.No.529 of 2016. The number of days delay is 139. The ground on which they seek for the delay to be condoned is that they were unable to produce the requisite document as they were not residents of Hosur. Due to this fact, they could not give instructions to their lawyer to file a written statement.

3. The learned District Munsif, Hosur, dismissed the application, against which, the present revision has been presented by the civil revision petitioners.

4. The parties are admittedly non-residents of Hosur and therefore, they were not in a position to instruct their lawyer. The delay is also not a long delay, but less than six months. Therefore, I am inclined to condone the delay, as the vital rights with respect to the immovable property are involved. However, I have to balance the interest of the judgment creditor and therefore, I am inclined to impose heavy condition.

5. The Civil Revision Petition is allowed on the following conditions:

(i) The petitioners pay a sum of Rs.10,000/- (Rupees Ten thousand only) to the

1st respondent/Perumayi Ammal, on or before 18.08.2023.

<https://www.mhc.tn.gov.in/judis>



(ii) The written statement should be filed on or before 18.08.2023.

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If any one of these conditions is not complied with by the civil revision petitioners, the Civil Revision Petition will stand dismissed. On complying with both the conditions, the learned District Munsif, Hosur, is requested to take up the application under Order IX Rule 13 of C.P.C. and allow the same and ensure that the suit is disposed of on or before 31.03.2024. No costs.

24.07.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
kj

To

The District Munsif, Hosur.



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V.LAKSHMINARAYANAN,J.

Kj

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