



C.R.P.No.1822 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.1822 of 2019  
and  
C.M.P.No.11985 of 2019

N.G.Subramani (Died)  
1.N.S.Loganathan  
2.N.S.Ravi

.. Petitioners

vs

1.Rahimunnissa  
2.Mallikunnisa  
3.S.K.Abdulla Sheriff  
4.Bathunnisa Begam  
5.Fatima Bee  
6.Noorinnisa  
7.D.K.Fathima  
8.Raheem Sheriff  
9.Kareem Sheriff  
10.Hakeem Sheriff  
11.Sakthithunnissa  
12.Abithunnisa

13.The Tahsildar  
Walaja Taluk Office,  
Walajapet.

14.The District Collector,  
Vellore District, Vellore.

.. Respondents

Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 10.04.2018 made in I.A.No.82 of 2016 in A.S.No.Nil of 2016 on the file of the Court of Principal District Judge, Vellore, Vellore District.



C.R.P.No.1822 of 2019

For Petitioners : Ms.Sri Ranjani  
for Mr.T.P.Prabakaran

For Respondents : Mr.Jeeva Kuralamudhu  
for Mr.Adithya Varadarajan  
for R9  
Mr.B.Tamilnidhi, AGP (CS)  
for R13 & R14  
R3 died – steps due  
R5, & R6 – NA  
R2,R7,R8,R10,R11,R12- NRN

### ORDER

This civil revision petition arises against the order passed in I.A.No. 82 of 2016 in un-numbered A.S.No. Nil of 2016 dated 10.04.2018.

2. The petitioners before me are the plaintiffs in the suit. The suit had been filed for declaration of title and for mandatory injunction and permanent injunction. In this suit, an application was taken out for rejection of plaint in I.A.No.222 of 2013. The said application was allowed on 18.07.2014. Against which, the un-numbered appeal was preferred in the year 2016. By the time the appeal was filed as against the judgment and decree in O.S.No.16 of 2013, 600 days had gone by. Therefore, to condone the delay I.A.No.82 of 2016 was presented. In and by an order dated 10.04.2018, the said application came to be dismissed. Aggrieved over the same, the present revision petition has been filed.



C.R.P.No.1822 of 2019

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3. Heard Ms.Sri Ranjani, learned counsel for Mr.T.P.Prabakaran and Mr.Jeeva Kuralamudhu, learned counsel for Mr.Adithya Varadarajan, learned counsel the respondent.

4. I have gone through the records and perused the papers placed before this Court.

5. It is not in dispute that the plaint which had been filed for declaration of title and for injunction had been rejected. Unfortunately for the petitioners, his counsel did not apply for certified copies in time. It was only later the certified copies were made available to the party. Therefore, the party had to engage a lawyer from Vellore in order to present the appeal. The petitioner has averred that the counsel, who conducted the matter at Ranipet did not handover the papers in time and, therefore, the petitioner was not in a position to present the appeal.

6. It is too well settled that without the certified copies of the judgment and decree, an appeal cannot be maintained. Therefore, necessarily a party will have to depend upon his or her counsel for the purpose of obtaining the certified copies. The delay



C.R.P.No.1822 of 2019

in obtaining certified copies by the counsel cannot be laid at the doors of the party. Apart from that, the petitioner had also pleaded that his wife was taking treatment at Kovai Medical Centre in Coimbatore, a city about 300 kms away from Vellore. The reasons given by the petitioner appear to me to be sufficient cause.

7. Unfortunately, the lower appellate court has dismissed the application stating that the petitioner has not examined the counsel in order to prove that point. The rift between the client and lawyer cannot be proved by way of evidence. In any event, these are professional matters for which the petitioner's erstwhile counsel cannot be summoned and examined in Court. Therefore, while setting aside the order passed in I.A.No.82 of 2016 dated 10.04.2018, I feel the petitioners will have to be imposed with heavy cost as compensation to the contesting respondents. Therefore, the following order is passed:-

*(i) The petitioner shall pay a sum of Rs.25,000/- to the contesting respondent within a period of six weeks from the date of receipt of a copy of this order.*

*(ii) On proof of production of such payment, the learned Principal District Judge is*



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C.R.P.No.1822 of 2019

*requested to take up the appeal and number the same.*

*(iii) On numbering the appeal, the same shall be disposed of within a period of four months from the date of such restoration.*

*(iv) It is made clear in case the cost ordered is not paid, the Civil Revision Petition will stand dismissed automatically.*

8. With the above direction, this civil revision petition stands allowed. No costs. Connected miscellaneous petition is closed.

12.09.2023

Index:Yes/No  
Neutral Citation:Yes/No  
ssm

To

- 1.The Tahsildar  
Walaja Taluk Office,  
Walajapet.
- 2.The District Collector,  
Vellore District, Vellore.
- 3.The Principal District Judge, Vellore.



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*C.R.P.No.1822 of 2019*

V. LAKSHMINARAYANAN,J.

ssm

C.R.P.No.1822 of 2019

12.09.2023