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C.R.P.No.1950 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.06.2023

CORAM

THE HON'BLE MRS JUSTICE K. GOVINDARAJAN THILAKAVADI

C.R.P.No.1950 of 2023

and

C.M.P.No.12343 of 2023

1. Murugan

2. Selvi

....

Petitioners

Vs

Subramani

....

Respondent

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and final order dated 11.10.2022 made in I.A.no.296 of 2021 in O.S.No.26 of 2017 passed by the Additional District Munsif Court, Tiruvannamalai.

For Petitioners : Mr.B.Jawahar

For Respondent : Ms.S.Suseela Devi

ORDER

This Civil Revision Petition is filed by the petitioners/defendants challenging the fair and final order dated 11.10.2022 made in I.A.No.296 of 2021 in O.S.No.26 of 2017 on the file of the Additional District Munsif Court, Tiruvannamalai.



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2. According to the petitioners, the respondent has filed a suit in O.S.No.26 of 2017 for recovery of possession. In the said suit, the petitioners/defendants were set exparte on 03.07.2019 and an exparte decree was passed accordingly. The contention of the petitioners is that they were not aware of the exparte decree and only at the time of receiving notice in E.P.No.2 of 2020, they came to know about the exparte decree passed in the above suit.

3. In the affidavit, the petitioners have stated that the first petitioner was suffering from Jaundice and he was the only person taking care of the case and because of his ailment he was unable to appear before the Trial Court. Hence, his absence was not wilful and wanton. It is submitted that the petitioners have filed an application in I.A.No.296 of 2021 for condonation of delay and the same was not considered by the Trial Court and the said application was dismissed, without considering the sufficient reasons stated for the delay by the petitioners.

4. The learned counsel appearing for the respondent contended that though there is a dispute between the parties, the petitioners



wantonly failed to appear for the hearing dates and made the suit to be decreed exparte. However, the learned counsel would submit that the above revision petition may be allowed on payment of cost for the said delay.

5. Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the respondent and perused the materials available on record.

6. On perusal of the records, it is found that there was a delay of 615 days in filing the condonation petition for setting aside the exparte decree. However, the learned counsel for the petitioners would submit that due to illness of the first petitioner herein and because of Covid-19 pandemic, he was unable to attend the Court.

7. Considering the facts and circumstances of the case and in the interest of justice, this Civil Revision Petition is allowed on payment of cost of Rs.5,000/- payable by the petitioners to the respondent on or before 06.07.2023, failing which the order passed by this Court shall stand automatically dismissed. On such payment, the Trial Court is



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directed to set aside the ex-parte decree and dispose of the suit within a period of six months thereafter.

8. In the result, this Civil Revision Petition stands allowed.

Consequently, connected miscellaneous petition is closed. No costs.

27.06.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

Lpp

Note : Issue order copy today

To

The Additional District Munsif Court,
Tiruvannamalai.



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K. GOVINDARAJAN THILAKAVADI ,J.

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