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CRP.No.2718 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2023

CORAM:

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

CRP.No.2718 of 2019

and

CMP.No.17940 of 2019

1.Govindan
2.Thangavel

... petitioners

Vs.

Pandurangan

... Respondent

PRAYER:

Civil Revision Petition filed under Section 115 of CPC to set aside the fair order and decretal order dated 06.07.2019 made in IA.No.425 of 2018 in OS.No.296 of 2013 on the file of District Munif Court, Dharmapuri and to allow the above civil revision petition.

For Petitioners : Mr.V.R.Annagandhi

For Respondent : Mr.P.M.Jayachandran

ORDER

This civil revision petition has been filed to set aside the fair order and decretal order dated 06.07.2019 made in IA.No.425 of 2018 in OS.No.296 of 2013 on the file of District Munif Court, Dharmapuri, thereby dismissed the



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application to condone the delay in filing the application to set aside the exparte

decree.

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2. The petitioners are the defendants 3 & 4 in the suit filed by the respondent for bare injunction in respect of the suit property. On receipt of summons, the petitioners failed to appear before the trial court and as such, they were set exparte. In order to set aside the exparte decree, the petitioners filed application with delay of 439 days in filing the said petition.

3. On perusal of the affidavit filed in support of the condone delay application, reveled that the petitioners did not state any sufficient reason in order to condone the delay of 439 days. That apart, the petitioners also filed suit for declaration as against the respondent in OS.No.39 of 2018 on the file of the District Munsif Court, Dharmapuri and it is pending. Therefore, the interest of the petitioners was already protected and they can very well pursue their suit as agianst the respondent in respect of the very same property. As such, the court below rightly dismissed the application and this Court finds no infirmity or illegality in the order passed by the court below.



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4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

09.02.2023

Speaking/non-speaking
Index : Yes/No
Internet : Yes
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To
The District Munif Court,
Dharmapuri



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G.K.ILANTHIRAIYAN, J.

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