



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :19.09.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN
C.R.P. No. 3370 of 2023

1. Shanthi

2. A.T. Rajan

...Petitioners

.Vs.

1. Neelakandan

2. E. Chandrasekaran

3. Poongudi

4. M. Sarala

5. E. Chellammal

...Respondents

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the docket order dated 10.01.2023 made in I.A.Sr.No.598 of 2022 in O.S.No.98 of 2008 on the file of the Principal District Munsif Court, Tindivanam and pass orders.



For Petitioner : Mr. S.Saranraj

ORDER

This petition is filed to set aside the docket order dated 10.01.2023 made in I.A.Sr.No.598 of 2022 in O.S.No.98 of 2008 on the file of the Principal District Munsif Court, Tindivanam and pass orders.

2. The facts of the case is that the petitioner filed an application in I.A.S.R.No. 598 of 2022 in O.S.No.98 of 2008 on the file of the Principal District Munsif Court, Tindivanam to set aside the exparte order passed in O.S.No.98 of 2008 with a delay of 5080 days. However, the same was returned without even numbering. Hence this petition.

3. The learned counsel for the petitioner submitted that the Court below have rejected the application on the ground that the petitioners have filed the petition at a very belated stage. The Court below failed to appreciate that the ex- parte decree can be questioned by the lawful owner at any point of time. Hence he prays this Court to allow this petition.



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4. Since this Civil Revision petition has been filed against the return of unnumbered Application, there is no need to issue notice to the respondent.

5. On a perusal of records it is seen that the first defendant had sold the property for the valid consideration. Thereafter, the legal heirs of the said Ettiyappan filed the suit against the petitioners and their mother. Subsequently, the petitioners herein informed about the filing of suit to the said Ettiyappan, who assured that he will sort out the issues. Believing the words of the Ettiyappan the petitioners has not proceeded the case. Thereafter, when the petitioners started to enquire the case with the counsel who appeared before the Court below, who answered in a lethargic way, due to which the petitioners have engaged another lawyer and found that the suit was decree exparte on 11.06.2008. Thereby, there is a delay of 5080 days in filing petition to set aside the said exparte decree.

6. On a perusal of the impugned order it is seen that the Court below had held that the petitioner have not filed the application well within the stipulated time, which is irrelevant at the time of numbering of the



Application and the same can be decided by letting in appropriate evidence.

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7. In view of the above, the learned Principal District Munsif Court, Tindivanam is directed to number the application filed in I.A.Sr.No.598 of 2022 in O.S.No.98 of 2008 if it is otherwise in order within a period of two months from the date of receipt of a copy of this order.

8. With the above directions, this Civil Revision Petition is disposed of. No order as to costs.

19.09.2023

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Index : Yes/No

Internet: Yes/No

To.

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The Principal District Munsif Court, Tindivanam

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V.BHAVANI SUBBAROYAN,J.
Smn

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