



CRP. No. 3417 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2023

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CRP No. 3417 of 2023
and CMP No. 21202 of 2023

1.S.Nalini
2.Dinesh
3.Madhumidha

...Petitioners

Vs.

M/s. Alfa Chemicals
Rep. By its Managing Director
K.P. Shanmugam

....Respondent

PRAYER : This petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 11.08.2023 passed in I.A No. 3 of 2021 in I.A No. 368 of 2014 in O.S No. 165 of 2011 on the file of III Additional District Judge, Salem.

For Petitioner : Mr.S.Mukunth, Senior counsel.

For Respondents : Ms.Zeenath Begum



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ORDER

This petition has been filed to to set aside the fair and decreetal order dated 11.08.2023 passed in I.A No. 3 of 2021 in I.A No. 368 of 2014 in O.S No. 165 of 2011 on the file of III Additional District Judge, Salem.

2. The revision petitioners are the Judgment Debtor in REP.No.10 of 2018 and defendants in the suit in O.S.No.165 of 2011. The said suit was filed by the respondent herein/plaintiff seeking for recovery of money and the same was dismissed by the trial Court. Later, the respondent/plaintiff filed an application in I.A.No.368 of 2014 seeking to review the earlier order of dismissal in O.S.No.165 of 2011 and in the said I.A., the first petitioner/second defendant was set ex-parte and said I.A.was allowed, suit was restored. Subsequently, the suit was decreed. Thereafter, the revision petitioners have filed an I.A.No.3 and 4 of 2021 seeking to set aside the ex-parte order dated 30.03.2016 passed in I.A.No.368 of 2014 and condone the delay of 1633 days, which were dismissed. Challenging the same the petitioner filed this civil revision petition.

3. Heard the submissions made by the learned counsel for the petitioner and the learned counsel for the respondent.



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368 of 2014 in O.S No. 165 of 2011, to review the judgment and decree passed in O.S No. 165 of 2011 dated 28.01.2013. If the respondent aggrieved over the judgment and decree passed by the Trial Court, they should have filed appeal instead they filed review as such is not maintainable. Moreover, no proper notice was served to the petitioner in the said application. But the Trial Court failed to appreciate the above facts. Hence, the order passed by the Trial Court in I.A No. 3 of 2021 in I.A No. 368 of 2014 in O.S No. 165 of 2011 is set aside. Thus, I.A No. 3 of 2021 in I.A No. 368 of 2014 in O.S No. 165 of 2011 is allowed. Further, the suit is of the year 2011, hence the Trial Court is directed to dispose of the suit within a period of three months from the date of receipt of a copy of this order.

5. In the result, this Civil Revision Petition is allowed. No Cost. Consequentially, connected miscellaneous petition is closed.

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T.V.THAMILSELVI,J.

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To

1. The III Additional District Judge, Salem.

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