



CRP Nos.3186 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2023

CORAM:

THE HONOURABLE Mr. JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.3186 of 2019
and CMP No.20761 of 2019

1. P.Dharmalingam
2. K.Nagaraj
3. D.Sundarambal
4. S.Sundaramoorthy

... Petitioners

Vs

K.Vijaya

... Respondent

PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India against the fair and decretal order dated 26.07.2019 passed in I.A.No.19 of 2019 in O.S.No.3 of 2014 on the file of Principal District Judge, Thiruvarur.

For Petitioners : Ms.S.Sowjanya
for Mr.s.Chandrasekharan

For Respondent : Mr.R.Rajarajan



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ORDER

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The suit is one for declaration of title and injunction. A written statement was also filed by the parties. Taking into consideration the close relationship between the parties, the matter was referred to Lok Adalat on 04.08.2015. After the matter was pending before the Lok Adalat for several hearings, it stood posted for evidence before the Court.

2. It is the case of the plaintiff/petitioner in I.A.No.19 of 2019 that she was suffering from jaundice and was taking native treatment. Therefore, she was not present in Court on 03.08.2016. On that date, the suit was dismissed for default. To condone the delay of 868 days to restore the suit, an application was filed in I.A.No.19 of 2019. The said application was allowed on payment of cost of Rs.1,000/-. Challenging the same, the present Civil Revision Petition has been filed.

3. Heard Ms.S. Sowjanya, learned counsel for the petitioners and though the respondent was served, none appeared before me.



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4. I have carefully perused the records and gone through the order of the Court below.

5. At the outset, the Court below having exercised its discretion to condone the delay, I ought not to interfere with the same unless and until the same is capricious or arbitrary. This is the view of the Supreme Court in the case of *N.Balakrishnan vs M.Krishnamurthy 1998 7 SCC 123*. Apart from that where serious rights relating to immovable properties are concerned, I do not want to jeopardise by interfering into the same. The learned trial Judge has found ill-health as a valid reason and as "sufficient cause" and has condoned the delay and that too on payment of costs.

6. In such circumstances, I do not find any merit in this revision. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

7. The learned trial Judge is requested to take up the application filed



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V.LAKSHMINARAYANAN,J.

Sr

under Order 9 Rule 9 of Civil Procedure Code, after issuing notice to the counsel on either side, restore the same and thereafter proceed with the suit in accordance with law as expeditiously as possible.

22.08.2023

Index:Yes/No
Speaking order/Non-speaking order
sr

To

The Principal District Judge,
Thiruvarur.

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