



WEB COPY



CRP No. 4607 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :14.12.2023

CORAM :

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

Civil Revision Petition No.4607 of 2023
and
CMP.No.27499 of 2023

1.Sampath
2.Kanchana

... Petitioners

Versus

Kumaravel

... Respondent

Civil Revision Petition filed Under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 19.06.2023 passed in I.A.No.387 of 2022 in O.S.No.12 of 2014 on the file of the Additional Sub Court, Tindivanam, Villupuram District.

For Petitioners : Mr. V.Regunathan

ORDER

The petitioners have filed this petition to set aside the fair and decretal order dated 19.06.2023 passed in I.A.No.387 of 2022 in O.S.No.12 of 2014 on the file of the Additional Sub Court, Tindivanam, Villupuram District.



CRP No. 4607 of 2023

2. Heard Mr. V.Regunathan, learned counsel for the petitioners and perused the materials available on record.

3. The learned counsel for the petitioners submitted that before the trial Court the petitioners have filed an I.A.346 of 2021 under Order IX Rule 9 of CPC to restore the suit which is dismissed on 26.02.2021 along with Section 5 of the Limitation Act to condone the delay of 232 days in filing the set aside application, which was allowed on payment of cost of pay Rs.1000/- to the District Legal Service Authority, the cost has to pay on or before 22.07.2022, and the same was not communicated to the petitioner herein and not able to pay the cost, therefore the application was dismissed, the payment of cost is neither willful nor wanton but due to the health issue of the petitioners and miscommunication, the same was not considered by the learned trial Judge. He further submitted that the suit is for recovery of possession and to set aside the sale deed dated 13.04.2005, registered as document No.310/2005 on the file of Joint Sub Registrar-2, Tindivanam, the petitioner have sufficient defence in the suit filed by them, by virtue of the ex-parte order the valuable right of the petitioners have been defeated and they have a valid defence to prove their case, hence he prays to allow this petition.



CRP No. 4607 of 2023

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5. Hence, the findings rendered by the learned trial Judge is set aside. The petitioners are directed to pay the cost of Rs.1000/- within a period of two weeks from the date of this order and on such payment the learned trial Judge is directed to take the case on file and dispose of the case as early as possible.



WEB COPY



CRP No. 4607 of 2023

T.V.THAMILSELVI, J.

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6. Accordingly, this Civil Revision Petition is allowed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

14.12.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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Note: Issue order copy by 15.12.2023

To

1. The Additional Sub Court, Tindivanam,
Villupuram District.
2. The Section Officer,
VR-Section, High Court of Madras.

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