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C.R.P.No. 4186 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4186 of 2023

and

C.M.P.No.25498 of 2023

1.Raja

2.Poongodi

.. Petitioners

Vs

1.S.Thangaraj

2.N.Ellappan

.. Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside fair and decreetal order dated 22.08.2023 in REA SR.No.1172 of 2023 in REP.No.40 of 2021 in O.S.No.104 of 2019 and direct the 2nd Additional District Court, Salem to number the petition and dispose the same on merits.

For Petitioner : Mr.R.Rajarajan

ORDER

This Civil Revision Petition is filed challenging the docket order dated 22.08.2023 passed by the trial Judge, the judgment debtors have preferred this revision.

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2. Before the executing Court, the judgment debtors / petitioners herein filed application to set aside the ex parte order dated 10.12.2021. Due to lack of communication and lock down period they were not able to contact their counsel and after lapse of 1 ½ years, they filed application to set aside the ex parte order against them, as such is not maintainable and returned.

3. On perusal of the records, it reveals that as judgment debtors, they filed application to set aside the ex parte order dated 10.12.2021, admittedly, it is a Covid lock down period. Furthermore, date of knowledge of the judgment debtors can be decided at the time of enquiry not at the time of numbering the petition. If opportunity is not given to the judgment debtors / petitioners herein, their valuable right to defend the case will be defeated. Therefore, reason assigned by the executing Court is set aside. The trial Court is directed to number the petition, within two weeks from the date of receipt of copy of this order.



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4. In the result, the Civil Revision Petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

29.11.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The II Additional District Court, Salem.



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T.V.THAMILSELVI, J.

AT

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