



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2023

CORAM

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.3997 of 2019

and

C.M.P.No.26296 of 2019

1.Govindasamy (Died)

2.Manjula

3.G.Prabavathi

4.G.Imayavaramban.

...Petitioners

(P2 to P4 are brought on record as Lrs of the deceased viz.,Govindasamy vide Court order dated 05.07.2023 made in C.M.P.No.7472, 7481 and 7482 of 2023 in CRP No.3997 of 2019 by VLNJ)

Vs.

Arul Masimagam Kattalai,

Attached to Arulmigu Punnageswarar,

Temple at Nemili Rep.by its,

Hereditary Trustee N. Kandasamy

S/o Natesa Reddy

...Respondent

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to under Article 227 of the Constitution of India as against the order passed in I.A.No.400 of 2018 in O.S.No.259 of 2008 dated 08.08.2019 passed by the learned District Munsif, Arakkonam, Vellore.

For Petitioners : Mr.T.K.Saravanan

For Respondent : Mr.K.Sathishkumar

for Mr.R.Vijayakumar

ORDER

This Civil Revision Petition arises against an order passed in

I.A.No.400 of 2018 in O.S.No.259/2008. The petitioner before this Court is



the defendant. An application was filed in I.A.No.400 of 2018 in O.S.No.259 of 2008 to condone the delay in filing the petition to set aside the *ex-parte* decree dated 21.08.2015.

2. The suit had been presented on 05.02.2008. It ended in an *ex-parte* decree on 21.08.2015, that is nearly after a period of 7 years. The grounds on which the petitioner states that the delay must be condoned are:-

(i) He was suffering from Jaundice and was taking treatment at Kottakal Vaithiyasala.

(ii) His lawyer took up an employment and therefore, was unable to inform him about the pendency of the suit.

3. The Learned Trial Judge was not satisfied with the reasons and has dismissed the applications to condone the delay.

4. It is pertinent to point out that, the Jaundice that the petitioner seems to have been afflicted with happened sometime in the year 2015. The petitioner is not an illiterate. He would state that he had gone on to the website of the Bar Council Of Tamil Nadu and Puducherry, to find out the status of his lawyer's practice.

5. A person who is educated enough to go to the website, which is



normally given to only to a person with some kind of education, cannot plead that he is uneducated and did not know how to follow up the case. Absolutely no reasons have been given as to why over a period of two (2) years, the petitioner did not approach the Counsel. No evidence is available as to why he did not inquire about the suit itself. To condone the delay in filing an application under Section 5 of the Act, in which sufficient cause is *sine-qua-non*. I do not find the explanation given by the petitioner satisfactory.

6. On the contrary, it seems that being a tenant, he wants to stick to the property on one ground or the other. Therefore, I am not convinced. The Civil Revision Petition stands dismissed and the order in I.A.No.400/2018 stands confirmed. Connected Miscellaneous Petition is closed. No costs.

05.07.2023

Index : Yes/No
Neutral Citation Case : Yes/No
nst



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V. LAKSHMINARAYANAN, J,
nst

To:

The District Munsif,
Arakkonam,
Vellore.

C.R.P.No.3997 of 2019
and
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05.07.2023

(2/2)