



C.R.P.No.4648 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2023

CORAM:

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

C.R.P.No.4648 of 2023

Hanifabe

... Petitioner

-Vs-

Noorulah (died)

1. Jaithoonbe
2. Dhoulath Basha
3. Sharfoon
4. Noorjahan
5. The Sub-Registrar,
Sub-Registrar Office,
Vettavalam Town,
Tiruvannamalai Dt.-606 754.
6. Faridha
7. Barkath
8. Heera
9. Shaheetha
10. Sardhar

... Respondents

Prayer : Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside order passed in I.A.No.64 of 2020 in O.S.No.227 of 2015 on the file of Principal District Munsif, Tiruvannamalai and to allow the petition in I.A.No.64 of 2020.



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For Petitioner : Mr.T.K.Saravanan

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ORDER

Challenging the impugned order passed in I.A.No.64 of 2020 in O.S.No.227 of 2015 passed by the learned Principal District Munsif, Tiruvannamalai, the Revision Petitioner/plaintiff preferred this Civil Revision Petition.

2. Since the relief is claimed challenging the order passed by the trial judge, notice to the respondents is dispensed with.

3. Before the trial court, the plaintiff filed an application to condone the delay of 1014 days in restoring the suit, which was dismissed for default on 13.03.2017. Due to lack of communication and due to illness, he was not able to follow the proceedings, as such it was dismissed for default. When he has taken steps to restore the suit, there was a delay of 1104 of days arose, which is neither willful nor wanton. However, the trial judge dismissed the entire suit, in fact, the other legal heirs are on record. But without considering the same, the application was dismissed by the trial judge. Aggrieved over the same, the Revision Petitioner preferred this Civil Revision Petition.



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4. Records perused. On perusal of records, it reveals that the

Revision Petitioner is aged nearly about 60 years and as a senior citizen, he is contesting the suit for permanent injunction and due to lack of communication, he was not able to follow the proceedings and unable to take steps immediately. Therefore, the reasons assigned by the Revision Petitioner is justifiable one. However, if opportunity is not given to him, his valuable right to defend the case will be defeated. Accordingly, this Civil Revision Petition is allowed and the findings of trial judge in I.A.No.64 of 2020 in O.S.No.227 of 2015 is set aside and the said application is ordered to be allowed on condition that the Revision Petitioner is directed to pay a sum of Rs.3,000/- towards cost to the Legal Services Authority, Tiruvannamalai within a period of two weeks from the date of receipt of copy of this order. On such payment, the trial judge is directed to consider the application and dispose the same as per manner known to law by giving opportunity to the other side. No costs.

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Index : Yes/No

Speaking Order : Yes/No

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To

The Principal District Munsif, Tiruvannamalai.



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T.V.THAMILSELVI, J.

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