



C.R.P.No. 4757 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2023

CORAM:

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

C.R.P.No. 4757 of 2023

1. Muniyan
2. Sarasa

... Petitioners

-Vs-

1. Palaniammal
2. Kolanthaiyammal
3. Veerappan
4. Sathiyaraj
5. Mathes
6. Iyammal
7. Palaniammal
8. Veerappan
9. Subbaryan
10. Rangasamy
11. Balusamy
12. Krishnasamy
13. Venkatesan
14. Palanisamy
15. Veerappan

...Respondents

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order and final order dated 17.07.2023



C.R.P.No. 4757 of 2023

passed in I.A.No.1 of 2022 in O.S.No.385 of 2019 on the file of District

Munsif cum Judicial Magistrate Court, Edappadi.

For Petitioners : Mr.K.Sudhakar

ORDER

Challenging the impugned order passed in I.A.No.1 of 2022 in O.S.No.385 of 2019 passed by the learned District Munsif cum Judicial Magistrate, Edappadi, the Revision Petitioners/plaintiffs 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 revision petitioners/plaintiffs filed an application to restore the suit, but there is a delay of 49 days. So, to condone the delay, they have filed an application and the same was objected by the respondents/defendants. On hearing both side submissions, the trial judge dismissed the application and also imposed cost stating that the suit was pending from the year of 2019 and the reason assigned by



C.R.P.No. 4757 of 2023

them for their non-appearance is not acceptable one. Aggrieved over the same, the revision petitioners/plaintiffs preferred this Civil Revision Petition.

4. The learned counsel for revision petitioners would submit that due to illness, they are not able to follow the proceedings and they are not able to attend the court and now they are ready to conduct the suit. If opportunity is not given to them, they will be put into much hardship. Hence, they prayed to set aside the findings of trial judge.

5. Admittedly, the plaintiffs is aged more than 50 years and hardly 50 days of delay arisen. If opportunity is not given to them, their valuable right to protect the property will be defeated. But, the trial judge dismissed the application, as such is erroneous one and the same is liable to be set aside. Accordingly, this Civil Revision Petition is allowed and the findings of trial judge in I.A.No.1 of 2022 in O.S.No.385 of 2019 is set aside and the said application is ordered to be allowed. The trial judge is directed to restore the suit by considering the application filed by them for restoration and proceed with the suit and dispose the same within a period of five



C.R.P.No. 4757 of 2023

months from the date of receipt of copy of this order, since because most of the parties are more than 50 years old. No costs.

21.12.2023

Index : Yes/No
Speaking Order : Yes/No
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To

The District Munsif cum Judicial Magistrate Court,
Edappadi.



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C.R.P.No. 4757 of 2023

T.V.THAMILSELVI, J.

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C.R.P.No. 4757 of 2023

21.12.2023