



C.R.P.No.3197 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.03.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No. 3197 of 2019

1. S.Chandramathi
2. Minor Dharshini
(Minor represented by her
mother S.Chandramathi) ... Petitioners

Vs

1. Karuppan
2. Sellammal
3. Selvi ... Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure to set aside the fair and decreetal order dated 28.02.2017 passed in I.A.No.1615 of 2015 in O.S.No.112 of 2010 on the file of the Subordinate Court, Namakkal.

For Petitioners : Mr.S.Sankar
For Respondents : Mr.K.T.S.Sivakumar

ORDER

This Civil Revision Petition has been filed to set aside the fair and decreetal order dated 28.02.2017 passed in I.A.No.1615 of 2015 in O.S.No.112 of 2010 on the file of the Subordinate Court, Namakkal, thereby



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dismissing the petition to condone the delay of 222 days in filing the petition to restore the suit.

2. The petitioners are the plaintiffs and the respondents are the defendants. The petitioners filed a suit for partition. However, they could not able to appear before the Trial Court, when the suit was ripe for trial. Hence, the suit was dismissed for default. It was not informed to the petitioners by their counsel. Therefore, they could not be able to file a petition to restore the suit in time. Hence, there was a delay of 222 days in filing the petition to restore the suit.

3. The petitioners filed a suit for partition and they may be given one more opportunity to defend the suit on merits and in accordance with law. No prejudice would be caused, if the suit filed by the petitioners is restored. However, for the inconvenience caused to the respondents herein, they have to be compensated with cost. Therefore, this Court interferes with the order passed by the Trial Court and it is liable to be set aside.

4. Accordingly, the order dated 28.02.2017 passed in



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I.A.No.1615 of 2015 in O.S.No.112 of 2010 on the file of the Subordinate Court, Namakkal, is hereby set aside on condition that the petitioners shall pay the cost of Rs.2,000/- to the respondents on or before 27.03.2023, failing which the order passed by this Court shall stand automatically cancelled. On such payment, the Trial Court is directed to restore the suit and dispose of the suit on merits and in accordance with law, within a period of six months from the date of receipt of a copy of this order.

5. In the result, this Civil Revision Petition stands allowed. No costs.

03.03.2023

Index:Yes/No
Internet:Yes/No
Lpp

To
The Subordinate Judge,
Namakkal.

G.K.ILANTHIRAIYAN, J.



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