



C.R.P(MD).No.789 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.03.2023

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(MD).No.789 of 2023

1.A.Sethuraji (died)
2.S.Sivapackiam
3.S.Ramaraj
4.S.Anusiya
5.S.Kannan

... Petitioners/Petitioners/Petitioners/Plaintiffs

Vs.

Shanmugam

... Respondent/Respondent/Respondent/Defendant

PRAYER:- This Civil Revision Petition has been filed under Section 151 of the Code of Civil Procedure, to set aside the fair and decretal order dated 29.11.2022 passed by the Subordinate Court, Thuraiyur, in I.A.No.1 of 2022 in unnumbered I.A.No.....of 2022 in O.S.No.202 of 2006.

For petitioners : Mr.S.Muthumalai Raja

ORDER

The petitioners are the legal heirs of the plaintiff in O.S.No.202 of 2006 before the Subordinate Court, Thuraiyur. The said suit was filed by the deceased plaintiff/Sethuraj to recover a sum of Rs.1,04,100/- along with interest from the respondent/defendant. The respondent/defendant has also



filed a written statement. The suit was dismissed on 04.01.2013. It is the specific case of the petitioner that the sole plaintiff died on 10.03.2008 and thereafter, the petitioners herein, as his legal heirs, were impleaded. They further contended that the learned counsel, who appeared for the plaintiff, had also passed away, that is why, there was a delay. But, without considering the same, the trial Court dismissed the application to condone the delay in filing an application to restore O.S.No.202 of 2003 to the file of the said Court.

2. Though the learned counsel for the petitioners submitted that on the day, when the suit was dismissed, the learned counsel, who appeared for the plaintiff had also passed away. However, the affidavit filed in support of the application under Order 9 Rule 9 of CPC does not reveal the same.

3. The affidavit that has been filed by the petitioners in support of I.A.No.1 of 2022 for condoning the delay of 2947 days in filing the application for restoring the suit under Order 9 Rule 9 of CPC., is bereft of particulars. The petitioners were required to give sufficient reasons for the delay as to why an application to restore the suit was not filed earlier. In my view, the trial Court has correctly concluded that the petitioners were careless



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in not filing the application for restoring the suit that was dismissed on
04.01.2013.

4. In view of the above, the Civil Revision Petition stands dismissed.

No costs.

23.03.2023

NCC : Yes/No

Index : Yes/No

Rmk

To

1.The Subordinate Judge, Thuraiyur.

2.The Record Keeper,
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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C.SARAVANAN,J.

Rmk

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