



C.R.P.(MD).No.1043 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 14.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.1043 of 2019

- | | |
|-----------------|--|
| 1. Raman (Died) | ... 1 st Petitioner/Petitioner/Appellant
Plaintiff |
| 2. Janaki | |
| 3. Dhanalakshmi | |
| 4. Chithradevi | |
| 5. Balamurugan | |
| 6. Suresh | ... Proposed Petitioners |

Petitioners 2 to 6 are brought on record as
LRS of the deceased sole petitioner vide
order of this Court dated 22.07.2022 made in
C.M.P(MD) Nos.481 to 483 of 2021 in
C.R.P(MD) No.1043 of 2019.

-vs-

Chandran
S/o. Manicka Velar
No.1931, NGO Colony,
Arch Main Road,
Kalanivasal, Karaikudi,
Through his Power Agent,
Adaikalam,
S/o. Arumuga Velar,
No.117, Kulalar Street,
Manamadurai, Sivagangai District.

... Respondent/Respondent/
Respondent/Defendant



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PRAAYER: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the order dated 24.04.2019 passed in I.A.No.14 of 2017 in A.S.No.111 of 2006 on the file of the Sub Court, Sivagangai against O.S.No.128 of 2002 on the file of the District Munsif Court, Manamadurai.

For Petitioners : Mr.T.Lenin Kumar

For Respondent : Mr.S.Parthasarathy

ORDER

The present Civil Revision Petition has been filed by the petitioner under Section 115 of the Civil Procedure Code, against the order dated 24.04.2019 passed in I.A.No.14 of 2017 in A.S.No.111 of 2006 on the file of the Sub Court, Sivagangai, against O.S.No.128 of 2002 on the file of the District Munsif Court, Manamadurai.

2. The first petitioner is the plaintiff before the Court below. After his demise, his legal heirs have been impleaded and are before this Court as other Revision Petitioners. The respondent is the defendant before the Court below.



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3. For the sake of convenience, the parties will be referred to as per the litigative status before the trial Court.

4. The brief facts which give rise to the instant Civil Revision Petition are that the first petitioner has filed an appeal in A.S.No.111 of 2006, on the file of the Sub Court, Sivagangai, which got to be dismissed on 22.12.2014.

5. The learned counsel appearing for the petitioners would submit that he has entrusted the brief to one Advocate, Mr.Murali Ramanujam. However, he died on 20.09.2016. It is further contended that whenever, he asked about the case during his life time, he would state that the suit is pending. After the death of his counsel, when he approached his office, he came to know about that the appeal was dismissed as early as on 22.12.2014. He would also further submit that he was suffering from some ailments since 2015. Therefore, he would submit that the very delay is beyond his control. Hence, he prayed to condone the delay.

6. The said application was stoutly contested and objected by the respondent. The learned counsel appearing for the respondent would submit



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that after taking advantage of his counsel's demise, now that the petitioner is making false allegation against his previous counsel. The learned counsel would contend that even before the Court below, during the cross examination, the petitioner admitted that he had knowledge about the dismissal of the appeal and only on the ground that he did not have any merits in the appeal, he had allowed the appeal for dismissal. Therefore, he would submit that there is no sufficient cause in filing the application. Hence, he prayed to dismiss this Civil Revision Petition.

7. This Court has given anxious consideration to the submissions of the learned counsel on either side.

8. It is pertinent to mention here that the Court below has referred the non-submission of the petitioner's medical records for dismissal of the delay condonation application. However, the learned counsel for the petitioners would invite the attention of this Court that even on the date of filing of the said application, the petitioner was senior citizen and he was suffering from some ailments.



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9. At this juncture, this Court would also look at the peculiar circumstances of this case. Here, the petitioner would contend that he has been diligently followed his counsel and that the counsel has informed him that the appeal has been pending. It is the petitioner's case that after the demise of his counsel, when he went to the office to get back the bundle, then only, he came to know about such dismissal of the appeal on 22.12.2014. Therefore, in such a peculiar circumstances, and also upon the ground that the petitioner has contested the suit effectively and has also filed an appeal without there being any delay, this Court deems it appropriate to condone the delay so as to have an effective remedy between the petitioners and the respondent. At this juncture, this Court would like to mention that the long delay would definitely cause great hardship to the respondent herein. Therefore, this Court deems it appropriate to impose cost of a sum of Rs.5,000/- (Rupees Five Thousand only) against the petitioners.

10. The learned counsel for the respondent would volunteer himself and state that instead of ordering cost to the respondent, the same may be directed to be paid to some philanthropic activities. Therefore, this Court direct the petitioners to deposit a sum of Rs.5,000/- (Rupees Five Thousand



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only) to the High Court Legal Services Committee, Madurai Bench of Madras High Court, Madurai within the period of four weeks from the date of receipt of a copy of this order, failing which, this Revision Petition shall stand dismissed without any further reference to this Court. On complying with the condition, the delay of 693 days is ordered to be condoned.

11. In the result, this Civil Revision Petition stands **allowed** as indicated above. There shall be no order as to costs.

12. Considering the long pendency of the case since 2006, the Court below is directed to dispose of the A.S.No.111 of 2006 within a period of three months subject to the order passed in the application for rehearing of the appeal.

14.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Sub Court,
Sivagangai.
2. The District Munsif Court,
Manamadurai.



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C.KUMARAPPAN,J.

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