



C.R.P.(MD)No.706 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 06.07.2023

CORAM:

THE HONOURABLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD)No.706 of 2019

1.Periyasamy

Rakkammal (Died)

2.Lakshmi

3.Murugan

4.Kumaran

5.Ramalakshmi

... Petitioners/ Petitioners / Plaintiffs

Vs.

1.Parvathi

2.Perumalsamy

3.Kannan

4.Krishnasamy

5.Tirupathy

... Respondents/Respondents/Defendants

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, to allow the revision thereby setting aside the order, in I.A.No.953 of 2017, on the file of the Additional District Munsif Court, Srivilliputhur, dated 05.07.2018.

For Petitioners : Mr.P.Muthusamy

For Respondents : Mr.S.Alagusundar



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ORDER

The instant Civil Revision Petition has been filed to set aside the order, made in I.A.No.953 of 2017, on the file of the Additional District Munsif Court, Srivilliputhur, dated 05.07.2018.

2. The petitioners are the plaintiffs in the suit. They filed the suit for declaration. It appears that when the matter was posted on 19.06.2017, the petitioner did not appear before the trial Court. Hence, the trial Court dismissed the suit for default. For restoration, the petitioner has filed an application along with the condonation of delay application to condone the delay of 2 days. While so, the delay condonation application was dismissed on the ground that notice was not given to the respondent. As a consequence, the connected restoration application, was also dismissed. Against which, the instant Civil Revision Petition is filed.

3. The petitioners / plaintiffs have contended that they are very much ready and willing to proceed with the trial and that the trial Court without going into the nature of the suit, has dismissed the condonation of delay and restoration application.



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4. The learned counsel for the respondents has strongly objected this petition.

5. On perusal of the records, the very restoration application was dismissed as a consequence of the dismissal of Section 5 of the Limitation Act application, that too for default. The delay sought to be condoned was only 2 days. The petitioner has pleaded a medial ground for condonation of delay.

6. This Court finds that the delay is very reasonable one and also reason on medial ground assigned by the petitioners is sufficient cause to condone the delay. Therefore, the delay of 2 days in filing the restoration petition is condoned.

7. In view of the condonation of delay, the order passed in I.A.No.953 of 2017, on the file of the Additional District Munsif, Srivilliputhur, dated 05.07.2018, dismissing the restoration application is liable to be interfered with. Thus, the I.A.No.757 of 2017 is ordered to be restored on file and the learned trial Judge is directed to dispose of this



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application according to law for restoration within a period of two months
from the date of receipt of this order.

8. With the above observation, the instant Civil Revision Petition
is disposed of. There shall be no order as to cost.

06.07.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

To

- 1.The Additional District Munsif Court,
Srivilliputhur.
- 2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court,
Madurai.



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C.KUMARAPPAN.,J.

Ls

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