



C.R.P.(MD).No.779 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

C.R.P.(NPD)(MD)No.779 of 2018

and

C.M.P(MD) No. 3519 of 2018

1. Adaikala Mary
2. Pilaventhiram
3. Joseph

... Petitioners/Petitioners/
Defendants No.1,3 &5

-VS-

Sebasthiyar

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed under Section 115 of C.P.C, against the fair and decretal order dated 24.06.2017 passed in I.A.No.649 of 2016 in O.S.No.81 of 2012 on the file of the learned District Munsif Court, Lalgudi, Trichy District.

For Petitioners : Mr.S.Karthik

For Respondent : Mr.V.R.Shanmuganathan



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ORDER

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The present Civil Revision Petition has been filed by the petitioners/ plaintiffs 1, 3 and 5 under Section 115 of C.P.C, against the fair and decreetal order, dated 24.06.2017 passed in I.A.No.649 of 2016 in O.S.No.81 of 2012 on the file of the learned District Munsif Court, Lalgudi, Trichy District.

2. The revision petitioners were the petitioners before the trial Court in I.A.No.649 of 2016. It was the contention of the revision petitioners that due to some illness, the counsel was not able to appear before the Court on 04.10.2012. Hence, an ex-parte order was passed against them. Against which it appears that an application to set aside the ex-parte order, dated 04.10.2012 was filed.

3. The learned trial Judge has dismissed the application on the ground that no written statement was filed along with the set aside application and that there was enormous delay of four years in filing the said application. Hence, the learned trial Judge has dismissed the application on 24.06.2017.



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4. Aggrieved with the order, the instant application has been filed.

During the course of the arguments, the learned counsel for the petitioners would admit that the finding of the trial Court in respect of non filing the written statement, is correct. However he would submit that they will not file any fresh written statement and that they wanted only to adopt the written statement filed by the second defendant.

5. However, the learned counsel for the respondent has stoutly objected this application on the ground that the delay of four years cannot be brushed aside on the above reason.

6. I have carefully considered the submissions made by the learned counsel on either side.

7. Both side counsel have fairly conceded that the suit is still pending as against the defendants 2 and 4. Therefore, this Court, considering the peculiar circumstances of the case and also keeping in mind with the undertaking given by the revision petitioners that they would only adopt the written statement of defendants 2 and 4, there cannot be any prejudice to the



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respondents herein in allowing this application. However, this Court would like to test to the *bonafides* of the petitioners by awarding costs.

8. In the result, considering the undertaking this Court allows this Civil Revision Petition on condition that the petitioners shall pay a sum of Rs.2,000/- (Rupees Two Thousand only) to the respondent on or before **17.07.2023**, failing which, the Revision Petition stands dismissed without any further reference to this Court. There shall be no order as to costs. Consequently connected Miscellaneous Petition is closed.

03.07.2023

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NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To
1. The District Munsif Court,
Lalgudi, Trichy District.



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C.KUMARAPPAN,J.

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