



C.R.P.(MD) No.1430 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.09.2023

CORAM

THE HON'BLE **MR.JUSTICE C.KUMARAPPAN**

C.R.P.(MD) No.1430 of 2018

and

C.M.P.(MD) No.6151 of 2018

1.Thangarasu

2.Murugan

3.Saravanan

4.Manokaran

5.Prabakaran

... Petitioners

Vs.

1.Natarajan

2.Karunanithi

... Respondents

Prayer:- This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order 13.02.2017 passed in I.A.No.244 of 2016 in O.S.No.169 of 2004 on the file of the District Munsif Court, Thiruvaiyaru.

For Petitioners : Mr.M.R.Sreenivasan

For Respondents : No appearance



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ORDER

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The present Civil Revision Petition has been filed against the impugned order 13.02.2017 passed by the District Munsif Court, Thiruvaiyaru allowing the application in I.A.No.244 of 2016 in O.S.No.169 of 2004 filed by the first respondent/plaintiff to condone the delay of 823 days in filing the application for restoration of the suit.

2. It is the statement of the learned counsel for the petitioners that without being sufficient cause, the delay has been condoned.

3. This Court has perused the order passed by the Court below. It is noticed that taking cognizance of various aspects and taking the cognizance the fact that the first respondent was aged about more than 60 years and also upon the fact that the first respondent has submitted about 24 documents in respect of the treatment taken by him, the Court below in its wisdom has condoned the delay.

4. It is pertinent to note that as per the decision of the Hon'ble Supreme Court in N.Balakrishnan Vs. M.Krishnamurthy, reported in (1998) 7 SCC 123, whenever the trial Court has accepted the reasons and found the existence of



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sufficient cause, and after exercising discretion positively in condoning the delay, the Superior Court should not disturb such finding, that too in the revisional jurisdiction, unless the exercise of discretion was on untenable grounds or arbitrary or perverse. The relevant paragraph of the said decision reads as under:-

*“9. It is axiomatic that condonation of delay is a matter of discretion of the court Section 5 of the Limitation Act does not say that such discretion can be exercised only if the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to want of acceptable explanation whereas in certain other cases delay of very long range can be condoned as the explanation thereof is satisfactory. **Once the court accepts the explanation as sufficient it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on whole untenable grounds or arbitrary or perverse.** But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.”*

(Emphasis supplied by this Court)

5. While looking into the impugned order of the Court below condoning the delay in filing the application for restoration of the suit, this Court do not



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find any perversity in the said order. Therefore, there are no merits in the present Civil Revision Petition.

6. However, considering the fact that the suit is pending from year 2004, this Court deem it fit to direct the learned District Munsif, Thiruvaiyaru to dispose of the suit in O.S.No.169 of 2004, as expeditiously as possible, preferably, within a period of 6 months from the date of receipt of a copy of this order.

7. Accordingly, this Civil Revision Petition stands dismissed. No cost. Consequently, connected Miscellaneous Petition is closed.

22.09.2023

Internet : Yes/No
NCC : Yes/No
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To

The District Munsif,
Thiruvaiyaru.



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C.KUMARAPPAN, J.

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