



C.R.P.(MD)No.2202 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 10.07.2023

CORAM:

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

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1.Jeyalakshmi

2.M.Umashankar

... Petitioners

Vs.

1.Thirugnasambandam

2.Rajalakshmi

3.Prema Rengarajan

4.Ravichandran

5.Sridhar

6.Suseela

7.Priya

8.Preetha

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order, dated 16.12.2017, passed in I.A.No.298 of 2015, in O.S.No.982 of 2010, on the file of the Principal Sub Ordinate Judge, Trichirappalli.

For Petitioners : Mr.R.Baskaran

For Respondents : Mr.K.Prabhakar for R1 to R5

: No appearance for R8

: R6 & R7 dismissed



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ORDER

The instant Civil Revision Petition has been filed, against the order, dated 16.12.2017, passed in I.A.No.298 of 2015, in O.S.No.982 of 2010, on the file of the Principal Sub Ordinate Judge, Trichirappalli.

2. The revision petitioners are the plaintiffs before the trial Court and they filed a suit for the relief of partition and other reliefs. It appears that they obtained an order of temporary injunction, restraining the defendants not to alienate or encumber the suit property, and it also emerges from the order passed by the learned District Judge, Tiruchirappalli in C.M.A.No.47 of 2011 that the temporary injunction granted by the trial Court was upheld in the appeal.

3. According to the petitioners, when the suit was pending, they shifted their address from Periyar Nagar, T.V.Kovil to some other address. During such time, when the plaintiffs' counsel has addressed him a letter about the trial of the case, the same has not been received by him, in view of his change of address. Hence, due to the absence of the plaintiff the trial Court has dismissed the suit for default. It appears that when they



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came to know about the same, they filed an application for restoration, with an application to condone the delay of 726 days.

3. The respondents / defendants have objected to the application on the ground that the reason assigned by the petitioners is not a correct one and even in the affidavit which had been filed for condonation delay, contains the very same address, which is mentioned in the plaint. Therefore, the very ground of the change of address cannot be believed.

4. After considering the either side submission, the learned trial Judge, has dismissed the application, disbelieving the version of the petitioners.

5. Before this Court, the learned counsel for the revision petitioners submits a copy of the Gas bills, wherein, different address was shown. However, the learned counsel for the respondent would submit that the Gas bills, which have been submitted along with the typed set, are not for the relevant period. Therefore, the same cannot be considered for the disposal of this revision petition.



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6. However, considering the nature of the suit, being one for partition and also considering the fact that the Gas bill was submitted before this Court, to show that there was a change in his address, this Court believes the statement of the petitioners stated in the affidavit. Therefore, this Court finds some ground to interfere with the orders of the trial Court.

7. Hence, the instant Civil Revision Petition is allowed. Thus, the delay of 726 days is ordered to be condoned, on condition that the petitioners shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the respondents herein within a period of four weeks from the date of receipt of copy of this order, failing which, the revision petition shall stand dismissed without any further reference to this Court.

8. Considering the suit is of the year 2010, the learned trial Judge is directed to complete the trial as expeditiously as possible.

NCC : Yes/No
Index : Yes/No
Ls

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To

- 1.The Principal Sub Ordinate Judge,
Trichirappalli.

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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