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C.R.P.No.1204 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.No.1204 of 2024

1. M/s. Saravana Theatre

represented by Partners

K.M.Mahalingam S/o. K.M. Margabandhu Mudaliar

K.M. Krishnamurthy S/o. K.M. Margabandhu Mudaliar

K.M. Durairaj S/o. K.M. Margabandhu Mudaliar

2. K.M. Mahalingam S/o. K.M. Margabandhu Mudaliar

3. K.M. Krishnamurthy S/o. K.M. Margabandhu Mudaliar

4. K.M. Durairaj S/o. K.M. Margabandhu Mudaliar

... Petitioners

Vs.

1. Sri Moogambigai Financiers, Gudiyattam

represented by its Managing Partners

P. Parameswari W/o. R.N. Palani

2. V.V. Rajan S/o. V.P. Vasudesan

3. K.M. Gopal S/o. K.M. Margabandhu Mudaliar

4. Indirani W/o. K.M. Margabandhu,

5. K.M. Velumani S/o. K.M. Margabandhu,

6. A. Jayalakshmi W/o. Arumugam

7. T. Shanthi W/o. D.K. Durai

8. M. Jothi W/o. Mohan

9. M. Usha W/o. Murugappa

...Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the order and decree made in I.A. No.73 of 2015 in C.M.A. SR No.11472 of 2015 on the file of the learned Principal District Judge, Vellore District dated 31.10.2023.

For Petitioner : Mr. K.A. Ravindran

ORDER

The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners to condone delay of 1547 days in filing civil miscellaneous appeal against the order passed in E.A. Nil of 2007 in E.P. No.16 of 2003 in O.S. No.183 of 1999 dated 10.11.2010.

2. The order in E.A. No.Nil of 207 was passed on 10.11.2010. The petitioners appear to have filed the application to restore the E.A. which was dismissed for default on 10.11.2010 and the same was dismissed. Thereafter, the petitioners filed a CRP (NPD) No.4764 of 2013 complaining that the executing Court failed to restore the E.A. as per the administrative order passed by the learned Principal District Judge, Vellore. This Court dismissed



the Civil Revision Petition No.4764 of 2013 on 20.01.2014 by observing that the E.A. dismissed for default cannot be restored by way of an administrative order. However, this Court observed that it was open to the petitioners to avail the other remedies available under law.

3. By virtue of the observation made by this Court in C.R.P. (NPD) No.4764 of 2013 dated 20.01.2014, the petitioners appear to have filed an appeal challenging the order passed in E.A. NIL of 2007 dated 10.11.2010 by filing C.M.A. SR. No.11472 of 2015 before the learned Principal District Judge, Vellore. The said Civil Miscellaneous Appeal was filed on 16.04.2014 without the certified copy of the order passed in E.A. No.NIL of 2007, which is impugned in the Civil Miscellaneous appeal.

4. Thereafter, the civil miscellaneous appeal papers were returned from time to time on many occasions for production of the impugned order. Thereafter, the petitioners filed the copy application for getting certified copy of the order dismissing the E.A. No.NIL of 2007 dated 10.11.2010 only on 06.03.2014. The certified copy was made ready on 15.04.2014. Thereafter,



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the appeal papers were re-presented. Though, the CRP (NPD) No.4764 of 2013 was dismissed by this Court on 20.01.2014 by granting liberty to the petitioners to explore other remedies available to them as per law, the petitioners have not applied for certified copy of the order impugned in E.A No.NIL of 2007 immediately. They presented appeal on 10.04.2014 without certified copy of the impugned order. They waited for one year and applied for the certified copy of the impugned order only on 06.03.2015. The petitioners failed to explain any reason for the delay from 20.01.2014 to 06.03.2015. Therefore, the Executing Court rightly came to the conclusion that the petitioners have failed to show sufficient cause to condone the delay in filing Civil Miscellaneous appeal papers. I do not find any error in the order impugned in this revision.

5. Therefore, the Civil Revision Petition is dismissed. No costs.

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S.SOUNTHAR, J.
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To
The Principal District Judge, Vellore District.

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