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THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

**C.R.P.No.1377 of 2022**

**and**

**C.M.P.No.7228 of 2022**

1.Lakshmi  
2.Thirumurthy  
3.Pushpalatha

...Petitioners

Vs.

T.S.Mayilsamy

...Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 20.12.2021 made in I.A.No.1212 of 2016 in O.S.No.912 of 2014 on the file of the First Additional District Munsif Court, Coimbatore.

For Petitioners : Mr.R.Bharath Kumar

For Respondent : Mr.C.H.Srikanth for Mr.C.Deivasigamani

**ORDER**

An order dismissing the application for condonation of delay of 643 days in seeking to set aside an exparte decree is under challenge.



2.The respondent filed a suit for recovery of possession against the petitioners, who are his wife and his children. They did not appear for hearing on 13.08.2014, though they were served with summons. Since they did not appear, they were set exparte and exparte evidence was taken on 03.09.2014. An exparte decree came to be passed on 17.09.2014.

3.Claiming that they could not appear in Court because there was family function on 13.08.2014 and that they came to know about the exparte decree only a few days prior to the filing of the application for condonation of delay, the petitioners sought for condonation of delay of 643 days. The application seeking condonation of delay was filed on 11.07.2016. The only reason that is attributed for the delay is that the petitioners had a family function and therefore, they could not attend Court on 13.08.2014. Apart from that there is no reason in the affidavit filed in support of the application.

4.It is also stated that the petitioners did not take the suit seriously as there was Panchayat between the parties. The Panchayat agreement was admittedly on 09.11.2012. The suit was filed much later in 2014. Though



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the petitioners were served, they did not appear and they did not take care to enquire as to what has happened to the suit after 13.08.2014 till filing of the application on 11.07.2016. The delay between 13.08.2014 and 11.07.2016 has not been explained at all. Though it is claimed that they were not aware of the decree, it was duty of the petitioners to have enquired about the suit particularly, when they admit that they were served with summons for the hearing on 13.08.2014. Hence, I do not see any reason to interfere with the order of the Trial Court. This Civil Revision Petition therefore, fails and it is accordingly, **dismissed**. No costs. Consequently, connected miscellaneous petition is closed.

09.02.2024

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**R.SUBRAMANIAN, J.**

KKN

To:-

The I-Additional District Munsif Court,  
Coimbatore.

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**and**  
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