



CRP No.994 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.08.2024

CORAM

THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN

CRP No.994 of 2024 &
C.M.P.Nos.5097 & 5098 of 2024

1.H.Anbhazhagan
2.A.Baskar
3.A.Jayakumar
4.G.Natarajan : Petitioners

versus

1.R.Yogalakshmi
2.B.Jagan Prasath
3.A.Ramana
4.R.Aravindan
5.G.Dhandapani
6.S.Maruthu : Respondents

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order dated 30.01.2024 in I.A.No.1 of 2023 in O.S.No.148 of 2023 passed by the learned Additional District Munsif Court, Tirupattur, Vellore District.

For Petitioners : Mr.S.Dharmakkan



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For Respondents

3, 4 & 6 : Mr.M.Himavanth

ORDER

This civil revision petition challenges the order passed by the learned Additional District Munsif (FAC), Tirupattur, Vellore District in I.A.No.1 of 2023 in O.S.No.148 of 2023.

2. I.A.No.1 of 2023 is an application filed under Order XXXIX Rule 1 and 2 of the Code of Civil Procedure.

3. In terms of Order XLIII Rule 1(r) read with Section 104, an appeal is maintainable before the learned Subordinate Judge at Tirupattur. Hence, I am not inclined to entertain this revision.

4. I noticed that the order was passed on 30.01.2024 and this revision was filed on 26.02.2024 i.e., within the period of limitation to prefer an appeal before the learned Subordinate Judge.



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5. The Supreme Court in Virudhunagar Hindu Nadargal Dharma Paribalana Sabai and Others v. Tuticorin Educational Society and Others, (2019) 9 SCC 538 has held that where an appeal is maintainable under Order XLIII Rule 1, this court should normally not interfere in exercise of its power under Article 227 of Constitution of India.

6. Following the said judgment, this revision is dismissed, granting liberty to the petitioners to prefer an appeal before the learned Subordinate Judge within thirty days from today. In case an appeal is filed within thirty days from today, the learned Subordinate Judge shall number the appeal without insisting an application under Section 5 of the Limitation Act. Learned Subordinate Judge is requested to act with the webcopy of the order of this Court, without insisting the certified copy of this order for numbering the appeal.

22.08.2024

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Note: Registry is directed to return the Certified copy of the fair and decreetal order, which have been enclosed in this petition to the civil revision



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petitioner after obtaining an usual endorsement.

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Index : Yes/No

Speaking Order/Non-speaking order

Neutral Citation : Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The Additional District Munsif Court,
Tirupattur, Vellore District.

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