



C.R.P.(PD).No.2175 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2175 of 2021
and CMP.No.16475 of 2021

1.Gnanasoundari
2.Kowthaman
3.Dhanvandri
4.Jothi

... Petitioners

vs.

Ezhilarasi

... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the fair and decreetal order dated 25.02.2021 and made in I.A.No.1 of 2019 in O.S.No.218 of 2010 on the file of the Sessions Judge, Mahila Court, Kancheepuram District and Chengalpattu.

For Petitioners	: Mr.M.Kathirvel
For Respondent	:Mr.M.Madhuprakash



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ORDER

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Aggrieved by an order dismissing the application filed by the petitioners seeking to condone the delay of 209 days in filing the application to set aside the ex-parte decree, the petitioners are before this Court.

2. The respondent herein filed a suit for declaration of title and recovery of possession after removal of the offending superstructure in the suit property and the suit was decreed ex-parte in the year 2019. Thereafter, the present application has been filed by the petitioners seeking to condone the delay of 209 days in filing the application to set aside the ex-parte decree.

3. In the affidavit filed in support of the application, it has been stated by the petitioners that after receipt of suit summons, they engaged an Advocate and also filed a written statement putting forth their case. Thereafter, the matter was transferred from Principal District Court, Chengalpattu to Additional District Court, Chengalpattu. Subsequently, it was again transferred to the file of Sessions Judge, Mahila Court, Chengalpattu and the same was decreed ex-parte for failure of the petitioners



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to cross examine PW.1. It was further stated by the petitioners that the first petitioner was ill and other petitioners were attending to her at the relevant point of time. It was further stated that the respondent caused disturbance by committing trespass into the house of the petitioners causing extensive damages. Due to the said illegal act of respondent, the petitioners could not take effective steps to set aside the ex-parte decree.

4. It is seen from the records that the respondent filed a suit for declaration of title and the suit was originally filed before the Principal District Court, Chengalpattu and the same was subsequently transferred to Additional District Court, Chengalpattu and then finally to Mahila Court, Chengalpattu. It is settled law, while considering the petition to condone the delay, the Court shall take a liberal approach when petitioner is able to point out plausible reason for delay. Taking into consideration the suit was transferred from one Court to other and also the fact that the petitioners already filed written statement putting forth their defence, this Court is inclined to take a liberal view of the matter and give one more opportunity to the petitioners. Having regard to the facts of the case, it would be appropriate to impose costs on the



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petitioners for their failure to approach the Court immediately after passing of
ex-parte decree.

5. Accordingly, the Civil Revision Petition is allowed by setting aside the order passed by the Court below on condition that the petitioners shall pay a sum of Rs.5,000/- as costs to the respondent. The said payment shall be made within a period of four weeks from today, failing which, the Civil Revision Petition shall stand automatically dismissed without further reference to the Court. In case, the petitioners complied with the condition, the Civil Revision Petition is allowed by setting aside the impugned order. The Court below is directed to dispose of the suit as expeditiously as possible.

6. Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

18.01.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
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To

The Sessions Judge, Mahila Court,
Kancheepuram District and Chengalpattu.



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S.SOUNTHAR, J.

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