



C.R.P.No.2576 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN

C.R.P.No.2576 of 2024
and C.M.P.No.13480 of 2024

1.B.Canniappin
2.B.Pajaniappin

... Petitioners

-Vs-

1.Baguirady
2.Vasanth alias Muniammal
3.Sugantha alias Latchoumi Baye
4.Zivarattiname
5.Gavoury alias Kala

... Respondents

Prayer : Civil Revision Petition under Article 227 of the Constitution of India to set aside the order and decreetal order in I.A.No.1509 of 2022 in O.S.No.85 of 2010 passed by the learned III Additional District Judge, Puducherry on 07.12.2023.

For Petitioners : Mr.B.Balavijayan

ORDER

This civil revision petition is presented against the order in I.A.No.1509 of 2022 in O.S.No.85 of 2010 passed by the learned III Additional District Judge, Puducherry on 07.12.2023.

2. The suit in O.S.No.85 of 2010 had been presented by the first respondent



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herein seeking for the relief of partition and separate possession. The defendants 5 and 6 also entered appearance and have filed a detailed written statement. When the matter was posted for evidence, the suit was dismissed for default on 19.06.2015.

3. Consequently, the plaintiff filed an application for restoration of the suit. The reason given by the plaintiff was that notice had not been given to her counsel informing about the proceedings. She would further plead that on account of the said fact the advocates did not appear before the Court and since the plaintiff's elder daughter had given birth to a baby very recently on 18.06.2015 and since she had to take care of her, she was not in a position to appear before the Court in person. In order to substantiate the same, she also produced the birth certificate of her granddaughter.

4. On receipt of the counter from the respondent, the learned Judge had condoned the application to restore the suit, deciding that there was sufficient cause for restoring the suit. Consequently, he allowed the application directing the plaintiff to pay a sum of Rs.1500/- as costs.

5. Learned counsel for the civil revision petitioners submits that the costs has already been received. As against the order restoring the suit, the present revision.



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6. The suit is one for partition at the instance of a lady. Her daughter having given birth to a child, she was unable to be present in the Court; neither the advocates were present on account of the fact that there was no information about the proceedings. Be that as it may, the learned trial Judge has exercised his discretion to condone the delay of 64 days in filing the application to restore the suit and consequently restored the suit also. Being a suit for partition, the cause of action arises day-to-day. Even today, the plaintiff is entitled to file a fresh suit for partition.

7. Taking into consideration the discretion having been exercised in favour of the plaintiff in restoring the suit, I am not inclined to interfere with the order passed by the learned III Additional District Judge, Puducherry. The learned Judge is requested to take note of the fact that the suit is pending from 2010 and therefore, he shall comply with the administrative instructions given by this Court for disposal of the suits pending for more than ten years and expedite the suit at all stages.

8. With the above observation, the civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

19.07.2024

Index : Yes/No

Neutral Citation : Yes/No



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V. LAKSHMINARAYANAN, J.

KST

To

The III Additional District Judge

Puducherry.

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