



C.R.P.(PD).No.2028 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(PD).No.2028 of 2021

1.Thambusamy
2.Kalimuthu

... Petitioners

vs.

1.V.Gandhimathi
2.Vedharathinam

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, praying to set aside the order dated 06.11.2020 passed by the Principal Subordinate Judge, Thiruvarur, made in I.A.No.39 of 2019 in U.F.A.S of 2019 and allow the Civil Revision Petition.

For Petitioners : Mr.V.Janarthanan

For Respondents : No Appearance for R1
R2-left



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ORDER

The Civil Revision Petition is filed challenging the order passed by the trial Court dismissing an application filed to condone the delay of 6 days in filing First Appeal due to the failure of the petitioner to pay the cost of Rs.500/- as ordered on 06.11.2020.

2. Heard the arguments of the learned counsel for the petitioner.

3. The first respondent/plaintiff is the contesting respondent in this revision. The notice to first respondent is served and her name appears in the list. The second respondent is only co-defendant and hence notice to him is not necessary in this revision.

4. The first respondent herein filed a suit for bare injunction against the petitioners and other respondents and the same was decreed. Aggrieved by the same, the petitioners/defendants 1 and 2 filed First Appeal



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with a delay of 6 days. It was further stated by the petitioners that the litigation has been looked after by the first petitioner on behalf of the second petitioner also and the first petitioner was affected with Jaundice at relevant point of time and he had taken native treatment for the same. As a result of illness, he could not contact his counsel and acquire knowledge about disposal of the suit immediately and hence there was a delay of 6 days in filing of the First Appeal.

5. The Court below taking into consideration the length of delay, had taken a different view and allowed the petition on payment of Rs.500/- as cost to the first respondent on or before 05.11.2020. However, the petitioner failed to pay the amount within the time stipulated.

6. The learned counsel appearing for the petitioners submitted that at the relevant point of time, the first petitioner was suffering from fever and he was advised home quarantine as per Covid-19 protocol and hence the order could not be complied with by him.



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7. Taking into consideration, the order impugned was passed during Covid-19 period, during which there were restrictions due to Covid-19 pandemic, this Court is inclined to allow this revision by directing the petitioners to deposit a sum of Rs.2,000/- to the credit of I.A.No.39 of 2019 in unfiled A.S on the file of the Principal Subordinate Court, Thiruvarur (unfiled A.S filed against the judgment and decree passed in O.S.No.138 of 2016 on the file of the District Munsif Court, Thiruvarur) within a period of two weeks from today. In case, the petitioners failed to deposit the amount within the stipulated period, the Civil Revision Petition shall stand automatically dismissed. On payment of above mentioned amount within two weeks, the Court below is directed to number the First Appeal and dispose of the same in accordance with law.

8. The first respondent is also permitted to withdraw the amount of Rs.2,000/- deposited by the petitioners by making formal application before the Court below.



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9. With these directions, the Civil Revision Petition stands allowed. No costs.

19.02.2024

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

The Principal Subordinate Judge,
Thiruvarur.



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S.SOUNTHAR, J.

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