



C.R.P.(NPD).No.2241 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.2241 of 2021

1.R.Alamelu

2.K.Gajalakshmi

... Petitioners

VS

1.J.Usharani

2.V.Perumal

3.S.Lakshmi

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal Order dated 29.07.2019 passed in I.A.No. (Un-Numbered) of 2019 in O.S.No.145 of 2007 on the file of the Additional District Munsif, Villupuram.

For Petitioners : Mr.M.Arumugam



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ORDER

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The Civil Revision Petition is filed challenging the order passed by the Court below dismissing the application filed by the petitioners seeking to review the order passed by the Trial Court returning the plaint in O.S.No.145 of 2007 for the purpose of presentation before the appropriate Court having pecuniary jurisdiction to entertain the suit.

2. The petitioners herein filed a suit seeking declaration of title and permanent injunction. The suit was described as 'Nanja Land' and valued the suit based on the revenue assessment. Lateron, the 3rd respondent, who was *lis pendens* purchaser of the suit property made objection regarding valuation adopted by the petitioners. Based on the objection, a preliminary issue was framed with regard to the valuation. Thereafter, based on the report filed by the Bailiff of the Court, the Court below came to the conclusion that suit property lies within the municipal limits of Villupuram Town and the same should be treated as a housing plot and therefore, the valuation made by the petitioners treating it as 'Nanja Land' was found to be not correct. The Court below also came to the conclusion that if the suit property is treated as



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housing plot as per the report of the Bailiff, market value would be Rs.62,13,000/-. Accordingly, the plaint was returned by the Court below on the ground that it goes out of pecuniary jurisdiction of the Court. The order returning the plaint was made by the Court below on 20.03.2017. The certified copy of the order was obtained by them on 09.04.2018. However, the petition for review was filed only on 29.06.2018. Hence, the review application filed by the petitioners is beyond the prescribed period of 30 days time. The Court below considered the review application and dismissed the same on the ground that petitioners have not explained the delay in filing the review application.

3. From the impugned order it is seen the unnumbered review application presented by the petitioners was taken up for hearing. If the petition is not accompanied with petition to condone the delay in filing the review application, the Court below instead of deciding the matter on merits ought to have returned the review application with direction to file condone delay application. However, the Court below considered the review application on merit and dismissed the same on the ground that the petitioners



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failed to explain the delay in filing the review application. Therefore, the impugned order is set aside and the Court below is directed to return the review application filed by the petitioners as the same was presented out of time. It is open to the petitioners to represent it by filing appropriate application to condone the delay. If any such condone delay application is filed, the same shall be considered by the Court below on its own merits without being influenced by anything in the said order.

4. Accordingly, the Civil Revision Petition is allowed. No Costs.

05.02.2024

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

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The Additional District Munsif,
Villupuram.



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S.SOUNTHAR, J.

dm

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