



C.R.P.(PD)No.1745 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.1745 of 2023

and

C.M.P.No.11356 of 2023

Elangovan (Died)

1.Anbukarasi

2.Kayalvizhi

3.Elanchezhiyan

4.Elavarasi

5.Sreeman

6.Niranjana Shree

.. Petitioners

(Cause title accepted vide
Court order dated
31.01.2023 made in
C.M.P.No.15843 of 2019
in C.R.P.SR.No.87930 of
2019 by SMSJ)

Vs.

1.T.R.Pannerselvam

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<https://www.mhc.tn.gov.in/judis>



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2.Anjammal

.. Respondents

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the docket order made in I.A.No.174 of 2013 in O.S.No.14 of 2012, dated 16.02.2017, on the file of the Sub Court, Mannargudi, Thiruvarur District.

For Petitioners : Mr.D.Veerasekharan

For R1 : Ms.R.Uma Maheswari
for Ms.P.T.Ramadevi

For R2 : Mr.M.Devaraj

ORDER

The present Civil Revision Petition is at the instance of the legal representatives of the 2nd defendant to the suit.

2. The suit for specific performance of an agreement of sale was presented in O.S.No.14 of 2012 before the learned Subordinate Judge at Mannargudi.

3. On account of the fact that both the defendants did not evince any interest in the litigation, it ended in an *ex parte* decree on 16.08.2012. On coming to know of the *ex parte* decree, the 2nd defendant filed an application to condone the delay in setting aside the *ex parte* decree dated 16.08.2012.



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The said condone delay application was filed on 23.07.2013. The Court took it on file and numbered it as I.A.No.174 of 2013.

4. After giving notice to the respondents, a counter was received on 28.01.2014. From 01.02.2014 onwards, the matter was adjourned for an enquiry in the application filed to condone the delay. While the application was pending, the 2nd defendant/Elangovan passed away on 27.06.2016. He left behind his wife, children and the legal heirs of his pre-deceased daughter/Geetha as his legal heirs. His daughter/Geetha passed away on 23.06.2014. Since the legal representatives of the deceased Elangovan had not been brought on record, the learned trial Judge dismissed the application filed to condone the delay on the ground that the steps had not been taken by the civil revision petitioners. This order was passed on 16.02.2017. Challenging the order of dismissal for default, the present Civil Revision Petition has been filed before this Court.

5. In order to revise an order either under Section 115 of the Code of Civil Procedure or under Article 227 of the Constitution of India, it requires that an order to be passed by the trial Court. This order must be in terms of Section 2(14) of the Code of Civil Procedure. An order which dismisses the



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Interlocutory Application for not taking steps is not an order capable of being revised.

6. Nonetheless, this revision had been entertained by this Court, and pending the litigation, an application came to be filed to accept the cause title as presented in the revision. This application was numbered as C.M.P.No.15843 of 2019 in C.R.P.SR.No.87930 of 2019, and it finally came to be ordered by this Court on 31.01.2023. Being an order passed in the revision as against the Interlocutory order, the taking of steps by the petitioner in the revision would enure in favour of the petitioner before the trial Court. Therefore, all that has to be done by the civil revision petitioners is to file a memo before the trial Court bringing it to the notice of that Court, that the High Court has already accepted the cause title, and has brought the legal representatives of the deceased 2nd defendant on record in C.M.P.No.15843 of 2019 in C.R.P.SR.No.87930 of 2019, dated 31.01.2023.



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7. Insofar as the main revision itself is concerned, as the petitioner has taken steps before the High Court, all that remains to be done is for the petitioner to file an application to restore the application in I.A.No.174 of 2013. I noticed that the application came to be dismissed for not taking steps on 16.02.2017. This civil revision petition came to be presented on 12.07.2019, and it is being disposed of by me today.

8. Therefore, the time taken from 12.07.2019 till today will stand excluded. The legal representatives will have to file an application to restore the application in I.A.No.174 of 2013 explaining the delay between 16.02.2017 and 11.07.2019. The Court shall not insist upon the explanation to be given by them from 12.07.2019 till the date of filing of the restoration petition.

9. The petition to restore the application in I.A.No.174 of 2013 together with condone delay application explaining the delay from 16.02.2017 till 11.07.2019 shall be filed on or before 19.07.2024. On filing of such application, the Court shall receive a counter from the respondents in both restoration as well as the condone delay petitions, and dispose of the



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same within a period of eight weeks from the date of filing of a counter.

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10. With the above directions, the Civil Revision Petition stands disposed of. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

03.07.2024

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

V. LAKSHMINARAYANAN, J.



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To

The Sub Court,
Mannargudi, Thiruvarur District



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