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C.R.P.(NPD).No.2437 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

C.R.P.(NPD).No.2437 of 2021
and C.M.P.No.18505 of 2021

Saroja

... Petitioner

VS

1.M.Kandhasamy

2.Devarasu

3.P.Kandhasamy

4.Shanmugam

5.Velmurugan

6.Bupathi

7.Kunabal

8.Rajarajeswari

9.K.Muthukumar

10.Sundararajan

11.P.S.Kandhasamy

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12.Kandhan

13.Sureshkanna

14.Prabukanna

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, praying to set aside the order dated 19.08.2021 made in I.A.No.3 of 2020 in I.A.No.900 of 2014 in O.S.No.288 of 2012, on the file of the Court of Additional District Munsif, Thiruchengode.

For Petitioner : Mr.R.Krishna Prasad
for M/s.Sarvabhauman Associates

For R1 to R6 : Mr.S.Venkatesh

For R7, R8 and R9 : Not Ready in Notice

For R10, R13
and R14 : No Appearance

For R11 and R12 : Died

ORDER

The Civil Revision Petition is filed challenging the order passed by the Trial Court dismissing the application filed by the petitioner to condone the delay of 1420 days in filing the petition to restore I.A.No.900 of 2014, which was filed to set aside the *exparte* decree passed against the petitioner.



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2. In the affidavit filed in support of condone delay petition, it was stated by the petitioner that husband of the petitioner namely 1st defendant-Varadhan died on 28.02.2014 and the case has been looked after by son of the petitioner. After sometime, there was a dispute between the petitioner and her son on 03.08.2019 regarding the suit property and thereafter, the petitioner approached the Advocate and acquired knowledge about the *exparte* order passed against her and the dismissal of the petition filed by her to set aside the same. Immediately, the instant application has been filed to restore I.A.No.900 of 2014, the petition to set aside *exparte* order with a delay of 1420 days.

3. It is seen from the impugned order that initially the petitioner was set *exparte* and an application has been filed by her to set aside the *exparte* order and the same was numbered on 16.09.2014. Since there was no representation for the petitioner for several hearings, the said petition was dismissed for default on 01.09.2015. The petitioner after waiting for 4 years filed instant application to restore I.A.No.900 of 2014, which was filed to set aside the *exparte* order passed against her.



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4. It is informed that the legal representatives of the petitioner's husband-Jayabal were brought on record and they have been contesting the case. The copy of the E-courts status produced by the learned counsel appearing for the respondents 1 to 6 would suggest that the evidence of defendants' side was closed on 11.08.2023 and the matter was adjourned for advancing argument in the suit.

5. In such circumstances, the reason assigned by the petitioner, as if, she was not aware of the *ex parte* order passed against her for all these years, is not acceptable to this Court. I do not find any error in the order passed by the Trial Court.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is closed.

13.03.2024

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

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The Additional District Munsif,
Thiruchengode.



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S.SOUNTHAR, J.

dm

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