



C.R.P.No.4199 of 2024

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2024

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.4199 of 2024

1. G.Muniamma

2. G.Chandran

3. G.Baskaran

... Petitioners

Vs

1. The Tahsildar,
Pallipet Town,
Having office at Sholingur Road,
Pallipet Town.

2. The District Collector,
Tiruvallur District.

3. The District Forest Officer,
Kancheepuram.

4. The Forest Range Officer,
Radhu Nagar, Pallipet Town & Post.

... Respondents

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code, pleaded to set aside the order dated 13.03.2024 in I.A.No.196 of 2018 in O.S.No.26 of 2002 on the file of the District Munsif cum Judicial Magistrate Court, Pallipet.



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For Petitioners : Mr.M.Sivaraman

For Respondents : Mr.R.Siddharth
Government Advocate

ORDER

This Civil Revision Petition has been filed against the order passed by the learned District Munsif cum Judicial Magistrate, Pallipet, on 13.03.2024 in I.A.No.196 of 2018 in O.S.No.26 of 2002.

2. The petitioners are the plaintiffs and the respondents are defendants in O.S.No.26 of 2002. The suit was filed by the plaintiffs for the relief of declaration of title to the suit A, B, C schedule properties, where the petitioners/plaintiffs are in possession. In which, the respondents had filed a written statement contending that the fields in S.No.125, 146 and 93 of Venkatarajakuppam, Pallipattu Taluk, were notified under Section 4 of the Tamil Nadu Forest Act, 1882 in G.O.Ms.No.327, F & F Department, dated 13.03.1980, for constitution as Venkatarajakuppam Reserved Forest. Since the petitioners/plaintiffs failed to appear before the trial Court, the suit came to be dismissed for default on 18.09.2003 and thereafter, the application filed by the petitioners seeking to restore the suit in O.S.No.26 of 2002



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was allowed with a condition to pay a cost of Rs.200, however, since the petitioners failed to comply with the condition, the restoration application was dismissed on 23.09.2005. Thereafter, the petitioners have filed an application in I.A.No.196 of 2018 seeking to condone the delay of 4209 days in filing the petition under Order 9 Rule 9 of CPC. The trial Court, holding that the Court does not find any merits and the petition without sufficient cause devalues the judicial process, has dismissed the application on 13.03.2024. Challenging the same, this present petition has been filed by the petitioners/plaintiffs.

3. Learned counsel for the petitioners submitted that the petitioners/plaintiffs are illiterate and that they have engaged a counsel who had not informed them about the dismissal of the suit and thereafter, on coming to know about the same, the petitioners had filed a restoration petition, however, the same came to be dismissed on 23.09.2005. Thereafter, since the first petitioner was admitted in the hospital due to her old age ailments, the petitioners were unable to file the petition under Order 9 Rule 9 of CPC within the period of limitation and therefore, there was a delay of 4209 days, whereas, the trial Judge had failed to take into consideration the reasons stated by the petitioners and dismissed the application



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vide order dated 13.03.2024. He further submitted that the petitioners are in possession for a long time and that if a chance is not given to them to contest the suit, they will put to great hardship. Thereby, he seeks to set aside the order passed in I.A.No.196 of 2018 on 13.03.2024.

4. Learned Government Advocate appearing for the respondents submitted that the petitioners are the encroachers in the Government property and no injunction was granted in the suit. He further submitted that after filing the written statement, the petitioners did not appear before the trial Court, therefore, the suit came to dismissed for default on 18.09.2003 and further, the restoration application filed by the petitioner was also dismissed on 23.09.2005, since the petitioners have not complied with the order to pay a cost of Rs.200/-. Thereafter, the petitioners have filed an application to condone the huge delay of 4209 days in filing the petition under Order 9 Rule 9 of CPC and the trial Court rightly finding that the petitioners have not pursued the case properly and they have not shown sufficient cause to condone the delay, has dismissed the application. Hence, he objected for allowing the present revision petition.



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5. Heard the learned counsel for the petitioners and the learned Government Advocate appearing for the respondents and perused the materials available on record.

6. On perusal of records, it is seen that the suit filed by the petitioners/plaintiffs seeking for declaration of title over the suit A, B, C schedule properties was dismissed for default in the year 2003 and since the petitioners failed to comply with the condition imposed by the trial Court in the restoration petition, the restoration petition also came to be dismissed on 23.09.2005. Later, after a period of 12 years, the petitioners have filed an application in I.A.No.196 of 2018 on 29.04.2017 seeking to condone the huge delay of 4209 days. Therefore, this Court is of the opinion that the trial Court had rightly finding that the petitioners have not shown sufficient cause to condone the delay, dismissed the application.

7. In view of the above, this Court does not find any illegality or infirmity in the order passed by the learned District Munsif cum Judicial Magistrate, Pallipattu in I.A.No.196 of 2018 in O.S.No.26 of 2002 on 13.03.2024. Accordingly, the Civil



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Revision Petition stands dismissed. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

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To

The District Munsif cum Judicial Magistrate Court,
Pallipet.



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A.D.JAGADISH CHANDIRA, J.

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