



WEB COPY



CRP No.5052 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2024

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRP No.5052 of 2023 and
CMP No.29415 of 2023

1. Kuppan
2. Rajathi
3. Gunasekaran
4. Gurumoorthi

... Petitioners

Vs.

1. Rani
2. Muniyammal
3. Sala
4. Vijayalakshmi

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 07.08.2023 passed in I.A.No.4/2023 in O.S.No.338/2021 by the Additional District Judge, Krishnagiri.

For Petitioners : Mr.P.Mani



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ORDER

This Civil Revision Petition has been filed to set aside the order dated 07.08.2023 passed in I.A.No.4/2023 in O.S.No.338/2021 by the learned Additional District Judge, Krishnagiri.

2. The petitioners herein are the defendants in O.S.No.338/2021 and the respondents herein have filed the above suit seeking partition and permanent injunction. Pending suit, the suit was dismissed for default for non appearance of the respondents on 21.10.2022. Subsequently, they filed a petition under Section 5 of the Limitation Act to condone the delay of 35 days in preferring a petition to restore the suit. The above petition was allowed by the Trial Court on payment of costs of Rs.2,000/- and the same is impugned herein.

3. Heard the learned counsel for the petitioners and I have perused the materials on record.



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4. A perusal of the records shows that the respondents herein have filed the suit for partition and permanent injunction and for their non appearance before the Trial Court, the suit was dismissed for default on 21.10.2022. To restore the suit, the respondents have filed a petition to condone the delay and the learned Trial Judge, has condoned the delay of 35 days in preferring the petition to restore the suit on payment of costs of Rs.2,000/-

5. Now, the grievance of the petitioners/defendants is that, the respondents have not stated any valid reason to condone the delay and the delay period has not been properly explained by them. Of course, each and every day delay has to be explained in the condone delay petition. But, at the same time, the court should adopt liberal approach, keeping in mind the substantial rights of the parties. Therefore, considering the fact that the respondents have filed the suit for partition and other reliefs, an opportunity shall be given to them to adjudicate the dispute and the technicalities shall not be a ground to prevent rendering justice. As such, I do not find any



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reason to interfere with the order passed by the learned Trial Judge and hence, the civil revision petition is liable to be dismissed.

6. Accordingly, this civil revision petition is dismissed and the order passed by the learned trial Judge is upheld. No costs. Consequently, connected miscellaneous petition is closed.

05.01.2024

Index: Yes/No
Internet: Yes/No
mst

To

The Additional District Judge, Krishnagiri.



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V.SIVAGNANAM, J.,

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