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C.R.P.No.855 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2024

CORAM

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

C.R.P.No.855 of 2023

1. M.Thulasi
2. M.Mohan

... Petitioners

-VS-

- Kuppamma @ Jayalakshmi (Died)
1. Subramani
 2. Jayakumar
 3. Sureshkumar

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, 1908 praying to set aside the Fair and Decretal Order passed by the learned Sub Judge, Gudiyatham, Vellore District dated September 30, 2022 in I.A.No.1 of 2021 in I.A.No.5 of 2015 in A.S.No.Nil/2015 on the file of Sub Judge, Gudiyatham, Vellore District.



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For Petitioners : Ms.T.Sreelekha

For Respondents : Mr.S.Vijayakumar

ORDER

This Civil Revision Petition has been filed against the Fair and Decretal Order passed by the learned Sub Judge, Gudiyatham, ['First Appellate Court' for short] dated September 30, 2022 in I.A.No.1 of 2021 in I.A.No.5 of 2015 in A.S.No.Nil/2015 on the file of Sub Judge, Gudiyatham, Vellore District.

2. The revision petitioners herein are the plaintiffs and the respondents herein are the defendants in the Original Suit. For the sake of convenience the parties will be referred as per their array in O.S.No.629 of

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3. The plaintiffs filed the Original Suit seeking permanent injunction against the defendants and for costs. The said Suit was dismissed after full Trial on November 2, 2010. Feeling aggrieved by the decree and judgment passed by the Trial Court, the plaintiffs prepared an Appeal with delay of 1523 days. The delay condonation application has been numbered as I.A.No.5 of 2015 along with I.A.No.1 of 2021 filed under Order XLI Rule 27 of the Code of Civil Procedure praying to receive additional documents. The First Appellate Court after hearing both sides dismissed the I.A.No.1 of 2021 vide Order dated September 13, 2022. Aggrieved by the said Order, the plaintiffs filed this revision petition.

4. This Court heard on both sides. The delay condonation petition in I.A.No.5 of 2015 is still pending before the First Appellate Court. Application under Order XLI Rule 27 CPC would lie only after numbering the appeal Suit. It is discernible from the records, that the petitioner filed this I.A.No.1 of 2021 praying to receive the documents listed in the petition



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to explain the delay i.e., To support the averments made in I.A.No.05 of 2015. Hence, without getting into the merits of the petitions, this Court allows the revision petition and sets aside the Order in I.A.No.1 of 2021. The First Appellate Court is directed to receive the petition mentioned documents in I.A.No.5 of 2015, consider the same and decide the I.A.No.5 of 2015 as per law, within **30 days** from the date of receipt of a copy of this Order.

5. With the above observations, this Civil Revision Petition is disposed of. No costs.

26.11.2024

rna

Index : Yes

Internet : Yes

Neutral Citation: Yes

To

The Sub Judge, Gudiyatham, Vellore District.



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