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C.R.P.(PD) No.975 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2024

C O R A M

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

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Jayaraman (Died)

1. Pushpa
2. Uma
3. Umesh
4. Usha
5. Udhaya
6. Uthra

Valliammal (deceased)

... Petitioners

Versus

1. Vijay Krishnan

2. Elumalai

... Respondents

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India against the dismissal order passed in I.A.No.1277 of 2021 in O.S.No.518 of 2017 on 01.09.2023 passed by the learned Additional District Munsif Judge, Gingee, Villupuram District and to set aside the same.

For Petitioners : Mr.I.Rathinavel

For Respondents : No appearance

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ORDER



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The present Civil Revision Petition is filed against the dismissal order passed in I.A.No.1277 of 2021 in O.S.No.518 of 2017 on 01.09.2023 passed by the learned Additional District Munsif Judge, Gingee, Villupuram District and to set aside the same.

2. The petitioners' father Jayaraman had filed a suit in O.S.No.518 of 2017 for declaration and permanent injunction against the respondents/defendants. The petitioners' father Jayaraman passed away on 26.03.2021 and the mother of Jayaraman, namely, Valliammal, who is the 8th petitioner in I.A.No.1277 of 2021 also passed away on 21.11.2021. As legal heirs of the plaintiff, the petitioners had filed I.A.No.1277 of 2021 to implead themselves as parties to prosecute the suit. The first and second respondents had filed an objection stating that within the stipulated period, the petitioners have not filed a petition to implead or to substitute themselves as parties. Further, they have not filed a petition seeking condonation of delay or leave of the Court to get them impleaded. The Lower Court had dismissed the petition for the reason that the petitioners had not filed separate petition as regards the objection raised by the defendants and no condonation petition has been filed.



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3. The contention of the petitioner is that in this case, there is no delay and condonation of delay would not arise. The Lower Court failed to note that the period of limitation from 15.03.2020 to 02.10.2021 was excluded as per the judgment of the Hon'ble Supreme Court in *suo motu* W.P.No.3 of 2020 on the ground of Covid-19 Pandemic situation and the Hon'ble Supreme Court granted 90 days time from 03.10.2021 in computing the period of limitation for any suit, appeal, application or proceedings. In this case, when the sole plaintiff died on 26.03.2021 in between period of exclusion of limitation period, 90 days stipulated under Order XXII Rule 3 shall not be applicable to the above implead application. The trial Court had failed to consider the same and hence, the present petition is filed.

4. It is seen that the petitioners' father Jayaraman died on 26.03.2021 and the petitioners are the legal heirs of Jayaraman. The Hon'ble Apex Court in W.P.No.3 of 2020 had given directions that the period from 15.03.2020 to 02.10.2021 shall be excluded while calculating the period of limitation for any suit, appeal, application or proceeding. Further, 90 days grace period is granted with effect from 03.10.2021. The petitioner had filed I.A.No.1277 of 2021 on 07.10.2021 within 5 days of grace period.



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5. In view of the same, there is no requirement for filing a condonation petition and hence, the order of the lower Court is set aside. The lower Court is directed to take up I.A.No.1277 of 2021 on file and implead the petitioners as legal heirs of Jayaraman, as plaintiffs and permit them to prosecute the suit and dispose of the same on its own merits.

Accordingly, this Civil Revision Petition is disposed of. There shall be no order as to costs.

10.07.2024

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To
The Additional District Munsif Judge,
Gingee, Villupuram District.



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M. NIRMAL KUMAR, J.

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