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C.R.P.(NPD) No.5081 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 11.12.2024

CORAM

THE HON'BLE JUSTICE N.SATHISH KUMAR

C.R.P.(NPD) No.5081 of 2024
and C.M.P.No.28474 of 2024

1. Saraswathy
2. Pachappan
3. Sekar
4. Anbu

... Petitioners/Petitioners/Defendants

-VS-

Muniyappan (Died)

1. Sathiyavani
2. Minor Karthika
3. Minor Mohan

... Respondents/Respondents/Plaintiffs

Prayer: Civil Revision Petition filed under Section 115 of CPC to set aside the order and decretal order in I.A.No.1 of 2020 in O.S.No.130 of 2016 on the file of the District Munsif Court, Krishnagiri dated 02.09.2024 as unjust and illegal.

For Petitioners : Mrs.R.Poornima

ORDER

A challenge has been made to the impugned order dated 02.09.2024 made in I.A.No.1 of 2020 in O.S.No.130 of 2016, by which, the Interlocutory Application filed by the revision petitioners herein to condone



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the delay of 1055 days in filing petition to set aside the *ex parte* decree dated 27.03.2017 was dismissed.

2. Notice to the respondents is dispensed with, as no adverse order is going to be passed against them.

3. Originally, a suit in O.S.No.130 of 2016 had been filed by the respondents herein for declaration and recovery of possession and in the said suit, the defendants / revision petitioners herein appeared through Advocate on 03.10.2016. Though sufficient time had been granted to the defendants till 10.01.2017 to file their written statement, they had not chosen to file the same, consequent to which, they were set *ex parte* on 10.01.2017 itself and based on the documents and *ex parte* evidence, decree and judgment has been passed.

4. Thereafter, the revision petitioners had taken out an application in I.A.No.1 of 2020 to condone the delay of 1055 days in filing the petition to set aside the *ex parte* decree dated 27.03.2017. The reason



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assigned to condone such a huge delay was that though counsel on record informed the petitioners that the matter is posted for filing written statement, as a last chance, at that time, since 3rd defendant met with an accident and other defendants have gone for cooly work to some other place, they could not contact their Advocate and they have been set ex parte. The said application had been opposed by the respondents / plaintiffs, stating that false reasons had been given to condone the huge delay. The Trial Court has dismissed the application, challenging which, the present petition has been filed before this Court

5. Learned counsel for the revision petitioners submitted that one more chance may be given to the petitioners to contest the suit, since the said suit is for declaration and recovery of possession. She further submitted that as relatives had filed the suit, an opportunity may be afforded to the petitioners.

6. I have perused the material documents available on record.

7. Insofar as condonation of delay is concerned, it is a well



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settled law that if the party has shown sufficient cause for non prosecuting the case before the Court of Law, irrespective of the length of the delay, the Court can lean in favour of the party for advancement of the substantial justice, as otherwise, no leniency can be shown to the party merely for the sake of condoning the delay in the guise of extending liberal approach, even if the delay is very meagre. If the Courts adopt liberal approach in all matters concerning condonation of delay, there will be no end to civil litigation.

8. In this case, more than seven years have gone by. When a party has engaged a Lawyer, it is the duty of the said party to follow up the case properly and he should be vigilant always. The reason assigned for the huge delay indicates that despite the fact that the Advocate informed the defendants about filing of written statement, the defendants have not taken any steps either to contact the Advocate or to be present before the Court. Further, though one of the petitioners is stated to have met with an accident, no evidence whatsoever had been produced before the Trial Court to substantiate the accident. Once the revision petitioners are not vigilant in prosecuting the matter before the Court of Law and that no sufficient cause



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was shown to condone the delay, the casual allegation cannot have any importance.

9. Hence, finding no merits in the argument advanced by the learned counsel for the revision petitioners, this Civil Revision Petition is dismissed. No costs.

11.12.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non Speaking Order
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To:

District Munsif,
Krishnagiri.

N.SATHISH KUMAR,J.,
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