



C.R.P.(MD)No.455 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 05.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.455 of 2024

and

C.M.P.(MD)No.2286 of 2024

1.Nirmala

2.Jeyabalan

... Petitioners / Petitioners / Appellants /

Defendants 2 & 3

Vs.

1.Pitchaiammal

2.Sivanammal

3.Chinnaponnu

4.Ramalakshmi

... Respondents 1 to 4/ Respondents 1 to 4/
Respondents 1 to 4 / Plaintiffs

5.Azhagu

6.Seeniammal

7.Muthupillai

... Respondents 5 to 7 / Respondents 5 to 7/
Respondents 5 to 7/ Defendants 1, 4 & 5

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records relating to the decree and Judgment dated



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13.10.2023 in I.A.No.1 of 2022 in unnumbered A.S.No.... of 2022 on the file of the subordinate Judge, Melur and set aside the same by allowing this civil revision petition.

For Petitioners : Mr.Y.Prakash

For Respondents : Mr.R.Karunanidhi
for R1 to R4
: No appearance for R5 to R7

ORDER

Heard the learned counsel for the revision petitioners and the learned counsel for the contesting respondents.

2. R1 to R4 herein filed O.S.No.125 of 2008 on the file of the District Munsif Court, Melur seeking declaration that the sale deed executed in favour of the petitioners are null and void and also seeking for partition. The suit was decreed on 28.02.2020. Questioning the same, the petitioners filed appeal before the Sub Court, Melur. There was a delay in filing the appeal. To condone the same, I.A.No.1 of 2022 was filed. The first appellate court vide order dated 13.10.2023 dismissed IA. Questioning the same, this civil revision petition came to be filed.



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3. The learned counsel appearing for the revision petitioners submitted that the valuable rights of the revision petitioners are involved and that therefore the first appellate court ought to have been liberal in condoning the delay. He called upon this Court to set aside the impugned order and allow the civil revision petition.

4. Per contra, the learned counsel appearing for the plaintiffs / R1 to R4 herein submitted that the revision petitioners have dragged on the matter for a very long time and that therefore, they are not entitled to any indulgence at the hands of this Court. He pointed out that the decree was passed before the pandemic struck the country. The revision petitioners did have sufficient time to file an appeal. He points out that delay has not been properly explained. He adds that the impugned order is well reasoned and that it does not warrant interference.

5. I carefully considered the rival contentions and went through the materials on record.



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6. The decree in O.S.No.125 of 2008 was passed on 28.02.2020. The Hon'ble Supreme Court in Suo Motu Writ Petition (C) No.3 of 2020 on 10.01.2022 had held that the period from 15.03.2020 till 28.02.2022 shall be excluded in computing the limitation. Therefore, the delay occasioned in filing the appeal is only 177 days. Of-course, the revision petitioners are senior citizens. The first petitioner is aged about 77 years, while the second petitioner is aged about 81 years. They trace their title over the suit property from the mother of the plaintiffs. The sale deeds were executed in 1996 & 1997. The suit was filed in the year 2008. Substantial property rights are involved. Therefore, the court below ought to have condoned the delay. The impugned order is set aside. The Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

05.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
rmi

To:

The subordinate Judge, Melur.



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G.R.SWAMINATHAN, J.

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