



C.R.P.(MD)No.1703 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2024

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

C.R.P.(MD)No.1703 of 2024

and

C.M.P.(MD)No.9937 of 2024

1.P.Rajamani
2.R.Karthikaiselvi
3.R.Narasingamoorthi
4.G.Ramesh
5.V.Gurunathan
6.R.Suseela

... Petitioners

Vs.

N.Krishnamoorthi

... Respondent

PRAYER : Civil Revision Petition is filed under Section 115 of C.P.C., against the fair order and Ex-order, dated 20.03.2024, passed in I.A.No.5 of 2023 in O.S.No.43 of 2022 on the file of the Principal District Munsif, Thriumangalam.

For Petitioners : Mr.G.Mohankumar

For Respondent : Mr.S.Nagendran

ORDER

The present civil revision petition is filed against the order passed in I.A.No.5 of 2023 in O.S.No.43 of 2022 on the file of the Principal District Munsif, Thriumangalam.



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2.The suit in O.S.No.43 of 2022 was filed for declaration to declare the sale deed and the gift deed as null and void. The contention of the petitioners is that they have already engaged an Advocate to represent in the criminal proceedings and also engaged the same advocate to file a civil suit regarding the suit property. But prior to filing the said suit by their Advocate, the respondent herein had filed a suit in O.S.No.43 of 2022. However the said Advocate whom the petitioners had engaged did not file a civil suit. Even for the said civil suit filed by the respondents in O.S.No.43 of 2022, the same Advocate was engaged by the petitioners but the Advocate did not appear. Subsequently, in the revenue proceedings, the petitioners came to understand that the suit filed by the respondent herein was decreed and an exparte decree was granted in favour of the respondents herein. Thereafter, they filed a petition in I.A.No.5 of 2023 to set aside the exparte decree with a delay of 105 days.

3. After considering the plea, the Trial Court has disbelieved the case of the petitioners stating that the petitioners had not stated the name of the Advocate whom they had engaged before the Trial Court. The said reasoning cannot be accepted. Generally, the name of the Advocate will not be mentioned. In the present Civil Revision Petition out of an abundance of caution, the petitioners has



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enclosed a letter which was given by the petitioners to the said Advocate revoking the vakalat and had mentioned the name of the advocate.

4. Therefore, this Court is of the considered opinion that the reasoning cited by the Trial Court is erroneous. Moreover, the delay is only 105 days. Therefore, this Court is accepting the contention of the petitioners. However, the respondent cannot be put to prejudice as well. Therefore, to meet the ends of justice, the petitioners is directed to pay Rs.500/- to the learned Counsel appearing for the respondent within a period of two weeks from the date of receipt of a copy of this order. On such payment, this Civil Revision Petition is allowed. Therefore, the Trial Court is directed to restore the suit and hear the suit on merits.

5. With the above said observations, the civil revision petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.08.2024

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

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To

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- 1.Principal District Munsif, Thriumangalam.
- 2.The Section Officer,
Vernacular Record Section,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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