



C.R.P(MD)No.2054 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 29.08.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P(MD)No.2054 of 2024
and
C.M.P(MD)No.11646 of 2024

1.Kareembeevee

2.Paarisha

3.M.Nainar Mohamed

... Petitioners /
Respondents /
Plaintiffs

Vs.

1.Noorjahaan

2.Mumtaj Begam

... Respondents /
Petitioners /
Defendants 1 & 2

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, to call for the records of the order in I.A.No.1 of 2023 in O.S.No.285 of 2016 on the file of the Principal Subordinate Court, Tenkasi dated 26.03.2024 and to set aside the same and allow this Civil Revision Petition.

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For Petitioners : Mr.A.Haja Mohidden

ORDER

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Heard the learned counsel appearing for the revision petitioners.

2.The revision petitioners filed O.S.No.285 of 2016 on the file of Principal Sub Court, Tenkasi for the relief of declaration and recovery of possession. The defendants were set exparte. Exparte decree was also passed. To set aside the same, they filed petition under Order IX Rule 13 of CPC. There was delay of 225 days. To condone the same, I.A.No.1 of 2023 was filed. The Court below condoned the same vide order dated 26.03.2024. Challenging the same, this Civil Revision Petition has been filed.

3.The learned counsel appearing for the revision petitioners points out that the reason set out in the affidavit filed in support of the condone delay petition is false.

4.I do not want to go into the correctness of the said submission. The suit is for declaration and recovery of possession. It has



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serious bearing on the rights of the defendants. They therefore deserve to be give an one more opportunity to present their defence. The Court below has chosen to exercise discretion in their favour. In exercise of Article 227 of the Constitution of India, I do not propose to interfere with the said discretionary exercise.

5.In this view of the matter, the impugned order is sustained. Since the suit is of the year 2016, the Principal Sub Judge, Tenkasi shall dispose of the same with discretionary within a period of 5 months from the date of receipt of a copy of this order.

6.This Civil Revision Petition is dismissed with the aforesaid direction. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

The Principal Sub Court, Tenkasi.

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