



C.R.P.(MD)No.2476 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/03/2024

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

C.R.P (MD) No.2476 of 2022

1.Ammathai
2.M.Jothiyammal
3.V.Ramesh
4.V.Udyayakumar
5.V.Palpandi

: Petitioners/Appellants/
Plaintiffs

Vs.

1.Murugan @ K.Baskaran
2.Murugan @ K.Thilagarraaj

: Respondents/Respondents/
Defendants

PRAYER:-Civil Revision Petition has been filed under section 115 of the Civil Procedure Code, to call for the records pertaining to the fair and decreetal order, dated 22/08/2022 passed in IA No.2 of 2022 in unnumbered AS No.- of 2022, on the file of the Sub Court, Periyakulam and to set aside the same as illegal.

For Petitioners : Mr.S.Ayyanar Prem Kumar

For Respondents : Mr.A.Arumugam
for M/s.Ajmal Associates

O R D E R

This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 22/08/2022 passed in IA No.2 of 2022 in unnumbered AS No.- of 2022, on the file of the Sub Court, Periyakulam.



2. The facts in brief:-

The suit in OS No.129 of 2008 was filed by the petitioners herein as plaintiffs seeking the relief of declaration and consequential relief of recovery of possession and for costs. After full trial, the trial court dismissed the suit. Against which, petitioners filed appeal in AS No.- of 2022 before the appellate court. There was a delay of 1051 days in preferring the appeal. Along with the appeal memorandum, they have also filed the impugned petition under section 5 of the Limitation Act. That came to be dismissed by the appellate court.

3. Against which, this civil revision petition has been preferred.

4. The impugned petition is filed by the petitioners with the following averments:-

'After the dismissal of the suit, the second plaintiff namely Ammathai was affected by corona. She was taken to the hospital, where it was informed that she is suffering from heart ailment also. Because of that only, there was a delay of 1051 days in preferring the appeal.'



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5. That was resisted by the respondents by filing counter.

6. The trial court, after hearing both sides passed an order dismissing the petition observing that no documentary evidence in the form of medical records are produced. The particulars of the treatment is also not mentioned; Even though, the second petitioner is suffering from corona infection, what happened to others is not mentioned.

7. Heard both sides.

8. In a very casual manner, the petition has been preferred by the petitioners stating that the second petitioner was affected by corona. So, there was a delay.

9. As pointed by the appellate court, the inability or the disability, which caused to the other petitioners to approach or contact the Advocate to prepare the appeal memorandum is not stated by them.

10. Even the learned counsel appearing for the petitioners would submit that since the main suit is one for declaration and recovery of possession, opportunity must be given to them to prosecute the appeal.



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11.No doubt that it is a suit for declaration and recovery of possession. But the petitioners ought to have taken proper steps to file the appeal within the time limit. There is an inordinate delay of 1051 days in preferring the appeal. For the huge delay, as mentioned above, before the appellate court, no proper reason has been assigned by the petitioners. This nature of petitions should not be encouraged in a casual manner. The parties must be vigilant in approaching the court to redress their grievance.

12.Since no proper reason has been assigned by the petitioners, I find no reason to entertain this petition.

13.In the result, this civil revision petition stands **dismissed**. No costs.

12/03/2024

Index:Yes/No
Internet:Yes/No
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To,

- 1.The District Munsif Court,
Periyakulam,
Theni District.
- 2.The Sub Court
Periyakulam,
Theni District.
- 3.The Section Officer,
ER/VR Section,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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