



C.R.P.(MD)No.2057 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.10.2024

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2057 of 2024

Govindaraj (Died)

... Petitioner / Petitioner / Plaintiff

1.Valarmathi

2.Palanidurai

3.Senthil Kumar

4.Malathi

... Petitioners

*(Cause title is accepted vide order dated
31.07.2024 in C.M.P.(MD)No.10099 of 2024 in
C.R.P.(MD)No.SR63955 of 2023 by DBCJ)*

Vs.

R.Anjammal

... Respondent / Respondent / Defendant

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to call for the records pertaining to the order dated 29.01.2020 made in I.A.No.159 of 2019 in O.S.No.81 of 2013 on the file of the District Munsif cum Judicial Magistrate, Orathanadu and set aside the same.

For Petitioners : Mr.P.Samuel Gunasingh

For Respondent : Mr.A.Sivasubramanian

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ORDER

Heard both sides.

2.O.S.No.81 of 2013 on the file of the District Munsif Cum Judicial Magistrate, Orathanadu was filed by Govindaraj against Anjammal for specific performance. The suit was dismissed for default on 22.09.2017. To restore the same, Govindaraj filed an I.A. There was delay in filing the restoration petition. To condone the delay of 500 days, I.A.No.159 of 2015. It was dismissed on 29.01.2020. Subsequently, Govindaraj passed away. His legal representatives filed this civil revision petition questioning the order dated 29.01.2020 dismissing the condone delay petition.

3.The learned counsel for the revision petitioners reiterated all the contentions set out in the memorandum of grounds of this civil revision petition. He relied on the order dated 20.03.2024 made in C.R.P.(MD)No.965 of 2021. He pointed out that by allowing a suit for specific performance to go for default or by dragging on the proceedings, the plaintiff would not gain anything and therefore, a liberal view has to be taken.



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4.In normal circumstances, I would have adopted a liberal approach and accepted the contentions advanced by the learned counsel for the revision petitioners. I am not in a position to do so for more reasons than one. The suit has been filed for enforcing the agreement entered into on 25.11.1987. In other words, there has been a delay of 26 years in filing the suit itself. Of course, the revision petitioners would claim that they are very much in possession of the suit property. I do not want to go into the said aspect.

5.The learned counsel for the respondent points out that the parties are locked in litigation. Anjammal filed O.S.No.30 of 2007 for recovery of possession. The suit was decreed *ex parte*. To execute the decree, Anjammal filed E.P.No.9 of 2012. Delivery was ordered on 25.04.2013. Govindaraj filed C.M.A.Nos.2 and 3 of 2014. The civil miscellaneous appeals were dismissed. Subsequently, Anjammal filed O.S.No.128 of 2013 for bare injunction.

6.In these circumstances, Govindaraj was obliged to explain as to how there was delay of 500 days in seeking restoration. The Court below has come to the conclusion that sufficient cause has not been made out. It was a discretionary order. I cannot hold that the discretion has not been properly exercised.



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7.The impugned order was passed on 21.09.2020. The present civil revision petition came to be filed only in August 2023. In these circumstances, I am not inclined to interfere with the impugned order and the civil revision petition is dismissed. No costs.

17.10.2024

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

The District Munsif cum Judicial Magistrate,
Orathanadu.



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G.R.SWAMINATHAN, J.

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