



C.R.P.(MD)No.3122 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 03/01/2024

CORAM

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

C.R.P (MD) No.3122 of 2023

and

CMP (MD) No.16077 of 2023

1.Alagarsamy
2.Raman
3.Ramachandran
4.Pappa
5.Chinnaponu

: Revision Petitioners/
Plaintiffs

Vs.

1.Veeranan
2.Chinnasamy
3.Chithiran

: Respondents/Defendants

PRAYER:-Civil Revision Petition has been filed under section 115 of the Code of Civil Procedure to call for the records of the fair and decreetal order, dated 28/08/2023 passed in IA No.1 of 2022 in O.S No.59 of 2015 on the file of the Principal District Munsif Court, Aruppukottai and set aside the same.

For Petitioners : Mr.I.Suthakaran

For Respondents : Mr.M.Jothi Basu



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O R D E R

WEB COPY This civil revision petition has been filed seeking to set aside the fair and decreetal order, dated 28/08/2023 passed in IA No.1 of 2022 in O.S No.59 of 2015 by the Principal District Munsif Court, Aruppukottai.

2.The facts in brief:-

A suit in O.S No.59 of 2015 was filed by the respondents herein seeking various reliefs, declaring that the suit property belongs to the plaintiffs and for consequential injunction and costs. In that suit, the defendants namely the respondents herein remained *ex-parte* and an *ex-parte* decree was passed, on 18/12/2020. To set aside the *ex-parte* decree, they filed I.A No.1 of 2022 before the trial court. That came to be allowed by imposing costs of Rs.1,500/-.

3.Against which, this civil revision petition has been preferred by the plaintiffs stating that no proper reason was assigned by the respondents for condoning the delay.

4.Heard both sides.



5. Reading of the order passed by the trial court does indicate that during the relevant period, COVID-19 pandemic situation prevails. So out of the total delay period, the trial court thought it fit to impose costs. Since the pandemic situation prevails in the country, naturally that period ought to have been deducted from the days of delay. It has been rightly done by the trial court.

6. Even though the reasons assigned by the petitioners were not proper, but the fact remains that the suit is for declaration of title and injunction. If the ex-parte decree is allowed to stand, then prejudice may be caused to the respondents herein. But whereas the inconvenience caused to the petitioners herein can be compensated by way of costs.

7. On that account, I am of the considered view that the order passed by the trial court requires no interference. But however, the costs imposed by the trial court may be raised to Rs.5,000/- (Rupees Five Thousand only).

8. Let the cost of Rs.5,000/- (Rupees Five Thousand only) may be paid to the petitioners/plaintiffs within a



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period of 15 days from the date of receipt of a copy of this order. Considering the fact that the matter is of the year 2015, there shall be a direction to the trial concerned court to complete the trial process by following the High Court's Circular in ROC No. 1599/A/2009/B5, dated 15/05/2009.

9. With the above said observation, this civil revision petition stands **dismissed**. No costs. Consequently connected Miscellaneous Petition is closed.

03/01/2024

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

The Principal District Munsif Court,
Aruppukottai,
Virudhunagar District.



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G.ILANGO VAN, J

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