



C.R.P. No. 902 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.902 of 2025

1. Chitrabanu

2. Karunakaran

3. Dhanapal

... Petitioners

Vs

Dr.S.Kannan (Died)

1. Shanmugam

2. The Joint Registrar - I,
Thiruppapuliyur,
The District Registrar Officer,
Thiruppapuliyur, Cuddalore – 607 002.

3. Kavitha

4. Ishwarya

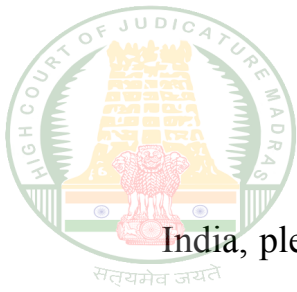
5. Soundarya

6. Parameshwar (Minor)

Rep. by his guardian/mother, Kavitha

... Respondents

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of



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India, pleased to set aside the order and decreetal order dated 21.06.2024 made in

WEB C.M.A.No.1 of 2021 on the file of the Principal Subordinate Judge at Cuddalore which confirms the order and decreetal order dated 11.02.2021 passed in I.A.No.230 of 2019 in O.S.No.298 of 2012 on the file of the learned Additional District Munsif, Cuddalore.

For Petitioners : Mr.P.Suresh Babu
For R2 : Mr.P.Gurunathan
Additional Government Pleader (C.S)

ORDER

This Civil Revision Petition has been filed against the order passed by the learned Principal Subordinate Judge at Cuddalore, on 21.06.2024 in C.M.A.No.1 of 2021 confirming the order passed in I.A.No.230 of 2019 in O.S.No.298 of 2012 on the file of the learned Additional District Munsif, Cuddalore.

2. The brief facts of the case are as follows :-

2.1. The petitioners/plaintiffs had filed a suit against one



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Dr.S.Kannan and respondents 1 & 2/Defendants 2 and 3 seeking for declaration

and permanent injunction before the Additional District Munsif Court, Cuddalore in O.S.No.298 of 2012. Since there was no representation for the plaintiffs, the suit was dismissed for default on 29.10.2013.

2.2. Thereafter, based on the application filed by the petitioners/plaintiffs in I.A.No.83 of 2013, the suit was restored, however, due to the absence of the plaintiffs, the suit was once again dismissed for default on 14.12.2016. Subsequently, the petitioners had filed an another application in I.A.No.445 of 2017 seeking to restore the suit and the trial Judge, had once again allowed the petition and restored the suit. However, the suit was again dismissed for default for the third time on 11.01.2019,

2.3. Thereafter, the petitioners/plaintiffs had filed an application in I.A.No.230 of 2019 under Order IX Rule 9 and Section 151 of CPC seeking to restore the suit. In which, the first defendant had filed a counter stating that despite the several opportunities given to the plaintiffs, they are dragging on the proceedings without producing any original document to show that the suit schedule property belong to them and have also not produced any documents to substantiate the reasons for their non-appearance.

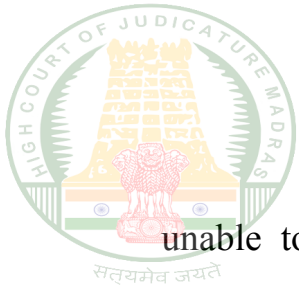


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2.4. The learned trial Judge, holding that the plaintiffs have not filed any documents to substantiate the reasons, not produced any valid documents to prove their right over the suit schedule property and they have not shown interest in contesting the case by producing the evidence on last three occasions viz., 29.10.2013, 14.12.2016 and 11.01.2019 and further, the reason stated for their non-appearance on 11.01.2019 is not acceptable, dismissed the petition vide order dated 11.02.2021.

2.5. Against the dismissal of I.A.No.230 of 2019, the plaintiffs have preferred an appeal in C.M.A.No.1 of 2021 before the Principal Subordinate Court at Cuddalore. The learned Principal Subordinate Judge, holding that the reasons stated by the petitioners/plaintiffs are not satisfactory and that the trial Court had rightly dismissed the petition, had dismissed the appeal on 21.06.2024. Aggrieved over the same, the present Civil Revision Petition has been filed.

3. Learned counsel for the petitioners submitted that the petitioners/plaintiffs had filed a suit in O.S.No.298 of 2012 on the file of the Additional District Munsif Court, Cuddalore and since the first petitioner, who was taking care of the case, was suffering from fever and bed ridden, he was



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unable to appear before the trial Court, therefore, the suit was dismissed for default. Thereafter, the petitioners had filed an application seeking to restore the suit within a period of 30 days from the dismissal of the suit on 11.01.2019, whereas, the trial Judge failed to take into consideration the reasons stated by the petitioners in I.A.No.230 of 2019 and dismissed the same on 11.02.2021. He further submitted that against the dismissal of I.A.No.230 of 2019, the petitioners had filed a civil miscellaneous appeal in C.M.A.No.1 of 2021, however, the learned judge, despite the sufficient cause shown by the petitioners for their non-appearance, had dismissed the appeal. Hence, he sought to set aside the order of dismissal.

4. Heard the learned counsel for the petitioners and perused the materials available on record.

5. On perusal of record, this Court is able to see that the suit filed by the petitioners for declaration and permanent injunction was dismissed for default for about three occasions viz., 29.10.2013, 14.12.2016 and 11.01.2019 and the learned Additional District Munsif, Cuddalore, holding that the claim of the petitioners

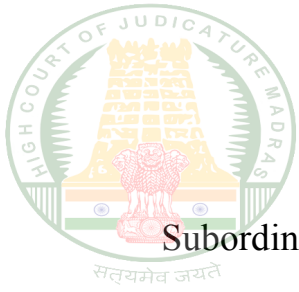


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seeking to restore the suit was not supported by any medical certificate and

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6. In view of the above, this Court finds that even after sufficient opportunity being given to the petitioners to get along with the suit, the petitioners continuously failed to appear before the trial Court, thereby, the attitude of the petitioners would show that they had no interest in contesting the case and only in order to drag on the proceedings they had been filing the petition one after another. Thus, this Court is of the opinion that the learned Principal Subordinate Judge, Cuddalore, had rightly dismissed the appeal in C.M.A.No.1 of 2021 and there is no illegality or infirmity in the order passed by the learned Principal



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Subordinate Judge, Cuddalore.

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7. Accordingly, the Civil Revision Petition stands dismissed. No costs.

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Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

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To

1. The Principal Subordinate Judge at Cuddalore.
2. The Additional District Munsif, Cuddalore.
3. The Section Officer, VR Section, High Court of Madras.



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A.D.JAGADISH CHANDIRA, J.

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