



C.R.P.No.1168 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 21.03.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.1168 of 2025

1. V.Kasthurithilagam

2. K.Kothainayagi

... Petitioners

Vs

N.Amaravathi

... Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, pleased to set aside the fair and decretal order dated 05.11.2024 made in I.A.No.110 of 2024 in I.A.No.7 of 2023 in O.S.No.145 of 2014 on the file of the learned District Judge, Cuddalore.

For Petitioners : Mr.D.Senthur Kugan

ORDER

This Civil Revision Petition has been filed against the order passed by the learned District Judge, Cuddalore, in I.A.No.110 of 2024 in I.A.No.7 of 2023 in O.S.No.145 of 2014 on 05.11.2024.



C.R.P.No.1168 of 2025

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

2.1. The revision petitioners are defendants 4 & 5 in the suit filed by the respondent/plaintiff before the Principal District Court, Cuddalore, in O.S.No.145 of 2014 seeking partition, permanent injunction and other reliefs. In the said suit, the petitioners had entered appearance through their counsel, however, they had not filed any written statement, therefore, they were set ex parte and an ex parte decree came to be passed on 28.04.2018.

2.2. Thereafter, the petitioners had filed an application in I.A.No.7 of 2023 under Section 5 of the Limitation Act to condone the delay of 451 days in filing the petition to set aside the *ex-parte* decree dated 28.04.2018. The learned Principal District Judge, Cuddalore, vide order dated 11.01.2024, had allowed the petition on payment of cost of Rs.1000/- to the respondent to be paid on or before 22.01.2024 and also held that failing which, the petition shall stand dismissed and the matter was posted on 23.01.2024.

2.3. On 23.01.2024, since the 1st petitioner, who was taking care of the litigation, suffered from health ailments and further, due to some miscommunication, he was unable to comply with the condition within time, the



C.R.P.No.1168 of 2025

learned Judge had dismissed the petition.

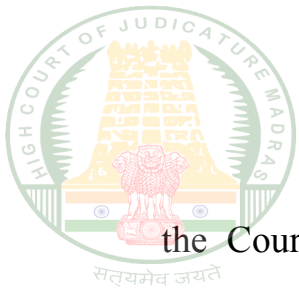
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2.4. Thereafter, the petitioners had filed a petition on 06.02.2024 in I.A.No.110 of 2024 under Section 148 CPC seeking to extent the time for payment of cost to the respondent. However, the learned Judge holding that the petitioners have wilfully failed to comply with the condition imposed in I.A.No.7 of 2023, had dismissed the petition on 05.11.2024. Aggrieved over the same, the petitioners/judgment debtors have filed the present revision petition.

3. The submissions of the learned counsel appearing for the petitioners are as follows :-

3.1. The first petitioner is residing at Villupuram and the second petitioner is residing at Chennai and that there was some miscommunication, thereby, there had been a delay. However, after the dismissal of the condone delay petition on 23.01.2024, the petitioners had immediately filed the petition seeking extension of time on 06.02.2024.

3.2. Section 148 of CPC prescribed that where any period is fixed or granted by the Court for the doing of any act prescribed or allowed by this Code,



C.R.P.No.1168 of 2025

the Court may, in its discretion, from time to time, enlarge such period not exceeding 30 days in total, even though the period originally fixed or granted may have expired.

3.3. As per Section 148 of CPC, within 30 days, the petitioners have filed the application seeking extension of time, whereas, the learned Judge, erroneously holding that the petitioners were willfully the delaying the process, had dismissed the application.

3.4. The petitioners have got a good case on merits, therefore, if the time is not extended and the order is not set aside, the petitioners would be put to grave hardship. Further, the petitioners are also ready to pay suitable compensation to the respondent for the inconvenience caused. Hence, he prayed to set aside the order dated 05.11.2024.

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

5. Having heard the learned counsel appearing for the petitioner and perused the materials available on record, taking into consideration the fact that though the petitioners have failed to comply with the condition imposed in I.A.No.7 of 2023



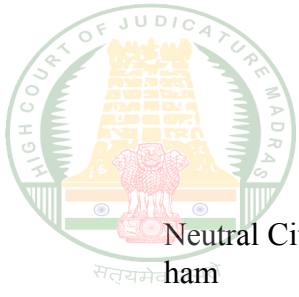
C.R.P.No.1168 of 2025

within the specified time, they have filed the application seeking extension of time for payment of cost within 14 days, this Court is inclined to allow the present revision petition, on imposition of terms and cost.

6. Accordingly, the Civil Revision Petition shall stand allowed and the order passed by the learned Principal District Judge, Cuddalore, in I.A.No.110 of 2024 in I.A.No.7 of 2023 in O.S.No.145 of 2014 on 05.11.2024, is hereby set aside and the time to comply with the conditional order passed in I.A.No.7 of 2023 is extended by **two weeks** from the date of receipt of copy of this order, on condition that the petitioners deposit a sum of **Rs.2,000/-** before the trial Court as costs within a period of **two weeks** from the date of receipt of a copy of this order. On such deposit being made, the ex parte decree dated 28.04.2018 in O.S.No.145 of 2014 shall be set aside and the case be taken up and disposed as expeditiously as possible. The petitioners shall cooperate for the speedy disposal of the trial. The amount of cost shall be disbursed to the respondent on filing of memo. No costs.

21.03.2025

Index: Yes/No
Speaking/Non-speaking order
Internet: Yes



Neutral Citation: Yes/No
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C.R.P.No.1168 of 2025



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C.R.P.No.1168 of 2025

A.D.JAGADISH CHANDIRA, J.

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To

1. The Principal District Judge, Cuddalore.
2. The Section Officer,
VR Section, High Court of Madras.

C.R.P.No.1168 of 2025

21.03.2025

7 / 7