



C.R.P.No.584 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 13.02.2025

CORAM :

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

C.R.P.No.584 of 2025

Kuppan (Deceased)

Visalatchi (Deceased)

1. Vijayakumar

2. Velmurugan

3. Vijayakumari

4. Ilayaraja

(Cause title accepted vide court order dated 06.04.2022
made in C.M.P.No.4926 of 2022 in CRP SR No.75332 of 2020) ... Petitioners

Vs

Jothi ... Respondent

PRAYER : Civil Revision Petition filed under Section 115 of Civil Procedure Code, pleaded to set aside the fair and decreetal order passed in I.A.No.326 of 2017 in O.S.No.180 of 2009 dated 14.08.2019 on the file of the learned Principal District Munsif, Kallakurichi.

For Petitioners : Mr.R.Jayaprakash



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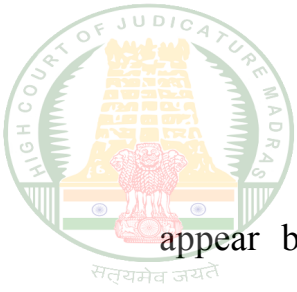
ORDER

This Civil Revision Petition has been filed against the order passed by the learned Principal District Munsif, Kallakurichi, on 14.08.2019 in I.A.No.326 of 2017 in O.S.No.180 of 2009.

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

2.1. The petitioners are the plaintiffs, who had filed a suit against the respondent/defendant before the Principal District Munsif Court, Kallakurichi, in O.S.No.180 of 2009 seeking for permanent injunction and also for a mandatory injunction and since they did not appear before the trial Court and failed to let in evidence, the said suit was dismissed for default on 01.07.2011.

2.2. Therefore, the petitioners/plaintiffs have filed an application in I.A.No.326 of 2017 under Section 5 of the Limitation Act seeking to condone the delay of 2026 days in filing the petition to set aside the order of dismissal dated 01.07.2011, contending that since the 2nd petitioner herein (4th petitioner in I.A.No.326 of 2017), who was conducting the case, was not well, he was unable to



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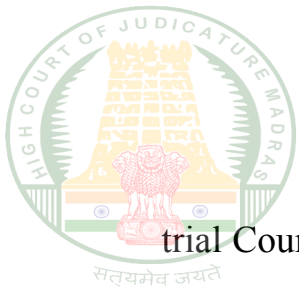
appear before the trial Court and only after his recovery, he had filed the

WEB application for restore, thereby, there was a delay on 2026 days.

2.3. The respondent/defendant had filed a counter contending that the petitioners and the respondent are residing in the same village and the 4th petitioner was hale and healthy and he was also roaming around the village. Further, the petitioners were aware of the case details, however, they wantonly not appeared before the Court and filed the petition after the lapse of 6 years with false reasons.

2.4. The learned trial Judge, finding that the petitioners have not shown sufficient cause to condone the delay and further, not produced any documents to substantiate the reasons stated for the delay and they had shown lethargic attitude, had dismissed the application on 14.08.2019. Aggrieved over the same, this 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.180 of 2009 before the Principal District Munsif Court, Kallakurichi and due to the ill health of the second petitioner, who was taking care of the case, he was unable to appear before the



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trial Court, therefore, the suit was dismissed for default on 01.07.2011. Thereafter,

on coming to know about the same, the petitioners had filed a restore petition on 01.08.2011, which was entered in 90R book as 6408 of 2011, whereas, it was not taken on file and thereby, the petitioners had filed a fresh application in I.A.No.326 of 2017 under Section 5 of the Limitation Act to condone the delay of 2026 days, whereas, the trial Judge, without considering the reasons stated by the petitioners for such delay, had dismissed the same on 14.08.2019. He further submitted that the petitioners have got a good case and if the present revision petition is not allowed and the suit was not restored, the petitioners will be put to great hardship. Thereby, he seeks to allow the revision petition.

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

5. It is seen that the suit filed by the petitioners/plaintiffs in the year 2009 for permanent injunction and mandatory injunction was dismissed for default on 01.07.2011 and the petitioners had filed a petition to condone the delay in filing the restore application after a period of 6 years. The trial Court, finding that the



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petitioners are not effective in pursuing the case and they have shown a lethargic attitude and also holding that the petitioners also had not adduced any document for the reason stated by them, had dismissed the application.

6. Further, a perusal of record, shows that the application filed by the petitioners in I.A.No.326 of 2017 was dismissed on 14.08.2019 and the revision petition before this Court was filed on 03.11.2020 with the delay of 241 days and subsequently, it has been returned by the Registry on number of occasions and it has been complied with and later, numbered. This Court finds that right from the beginning, the petitioners have not shown any care in contesting the case, thereby, there is no purpose will be served in allowing the petition.

7. In view of the above, this Court does not find any illegality or infirmity in the order passed by the learned trial Judge. Accordingly, the Civil Revision Petition stands dismissed. No costs.

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Index : Yes / No

Neutral Citation : Yes / No

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A.D.JAGADISH CHANDIRA, J.

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