



CRP.No.1359 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: **07.04.2025**

CORAM

THE HONOURABLE MR JUSTICE A.D.JAGADISH CHANDIRA

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1.Kalamani
2.Vijalakshmi

..Petitioners

Vs

1.P.Kaliappan
2.K.Panneerselvan

..Respondents

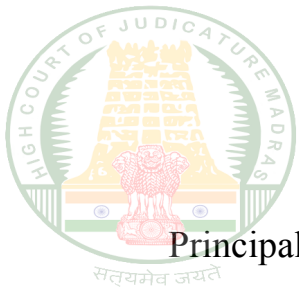
Prayer : Civil Revision Petition filed under Section 115 of CPC, as against the fair and final order passed in I.A.No.299 of 2021 in O.S.No.06 of 2012 dated 03.02.2023 on the file of Principal District Court at Tiruppur.

For Petitioners : Mr.MA.P.Thangavel

For Respondents : Mr.K.S.Karthik Raja

ORDER

This Civil Revision Petition has been filed seeking to set aside the fair and decretal order passed in I.A.No.299 of 2021 dated 03.02.2023 on the file of



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Principal District Court, Tiruppur.

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2. The petitioners are the plaintiffs who filed O.S.No.06 of 2012 on the file of the Principal District Court, Tiruppur. The suit came to be dismissed for default on 15.12.2012. The petitioners have filed an application under Section 5 of the Limitation Act, to condone the delay of 3017 days. The petitioners have contended that they were aged about 49 and 45 years respectively and the case was posted for trial on 15.05.2012 and since the 1st petitioner was suffering from jaundice and taking herbal treatment for the same at Trichur, Kerala and since the 2nd petitioner was suffering from stomach pain and vomiting, they were unable to meet their counsel and the suit came to be dismissed for default on 15.12.2012 and that after their recovery, due to Covid, they were unable to meet their counsel on 19.04.2021 and as such, there had been delay of 3017 days, in filing the petition to restore the suit.

3. The learned Judge, pointing out that the plaintiffs were not diligently prosecuting the matter and had allowed the suit to be dismissed for default in the year 2012 and that after 10 years, had come forward with the application to restore the suit, contending that they were not well and that they had not produced any documents to show that they were not well for 10 years,



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had dismissed the petition. Aggrieved against the said order of dismissal, this

WEB COPY Civil Revision Petition has been filed.

4. Mr.MA.P.Thangavel, learned counsel for the petitioners would submit that the suit was dismissed for default on 15.12.2012 and that the petitioners, on an earlier occasion, had filed I.A.No.433 of 2016 to condone the delay of 1354 days. Since the petition was misplaced by court staff, they were constrained to file a fresh application after 3017 days and he would further submit that the 1st petitioner was suffering from jaundice and was taking treatment at Kerala and the 2nd petitioner was suffering from severe stomach pain and vomiting and hence were unable to meet their counsel and pursue the matter, owing to which, there had been delay and the petitioners have got a strong case and if the delay is not condoned, severe hardship would be caused and he would seek for allowing the revision.

5. Per contra, the learned counsel for the respondents would submit that the petitioners have not raised the ground of filing the earlier application and the application being lost before the concerned court and that the petitioners have only averred that the first petitioner was suffering from



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jaundice and the 2nd petitioner was suffering from stomach pain and vomiting and the trial court finding that the petitioners have been protracting the case and that they have not shown sufficient cause for condoning the delay had dismissed the application.

Heard.

6. In this case, the learned Judge, Trial court rightly finding that no documents have been filed to prove the illness of the petitioners, dismissed the application filed to condone the delay of 3017 days. The learned Judge further held that the delay is very huge and after 10 years, the petitioners had filed the application to restore the suit and the petitioners were not diligent in prosecuting the matter and the court cannot show leniency on the person who were negligent in prosecuting their case. The petitioners having not been diligent in pursuing the matter by filing restoration application within time and having protracted the matter for so long and considering that the court cannot keep the matter pending on its file for such a long duration, this court does not find any error in the impugned order passed by the learned Principal District, Tiruppur. Accordingly, this Civil Revision Petition is dismissed. No costs.

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1. The learned Principal District Judge,
Principal District Court, Tiruppur.



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A.D.JAGADISH CHANDIRA, J.

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