



CRP.No.5375 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Dated 07.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

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and CMP.No.29789 of 2024

1.R.Jayaprakash
2.J.Jayalakshmi
3.J.Balavijaykumar
4.J.B.Pravinkumar

... Petitioners

Versus

1.K.V.Kanagasivan
2.Chandra
3.Rajammal

... Respondents

Prayer: Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 06.03.2024 passed in I.A.No.1 of 2022 in A.S.CFR.No.5780 of 2022 on the file of Principal Subordinate Court, Coimbatore.

For petitioner : Mr.S.Venugopalraj

ORDER

Challenging the impugned order allowing the application filed to condone the delay of 45 days in filing the appeal as against the judgment and decree in



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O.S.No.426 of 2017 on the file of District Munsif, Suler, the present revision has been filed.

2. Two suits have been filed by the parties in respect of the immovable properties in Suler seeking declaration and injunction. The revision petitioner has filed a suit in O.S.No.425 of 2017, it appears that the suit has been decreed, whereas, the respondent herein had filed a suit in O.S.No.426 of 2017 for declaration and injunction, however, that suit has been dismissed on 25.04.2022. Challenging the said dismissal, appeal been filed along with the delay condonation application. The Trial Court exercising its jurisdiction allowed the condone delay application imposing costs of Rs.2000/-. Challenging the said order, the present revision petition.

3. The main contention raised by the petitioner is that the reasons assigned by the respondent before the Trial Court is not true, they also filed another application before the District Munsif, Suler for return of certain documents. Therefore, their contention that they are residing at Kerala, they were unable to move to Coimbatore is a false statement.



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4. Heard the learned counsel for the petitioner. Since, no adverse order is passed against the respondent, notice is dispensed with.

5. At the outset, this Court is of the view that when the Trial Court has exercised its jurisdiction properly in giving proper opportunity to the parties to agitate their substantive rights, this revision as against that order is not maintainable in view of this Court. The Trial Court being satisfied with the reasons had allowed that application, wherein, there is only a 45 days of delay in filing the appeal, even assuming that there is negligence on the part of the parties, substantive rights of the parties cannot be defeated from the very inception. It is relevant to note that the Hon'ble Apex Court in the case of *Robin Thapa vs. Rohit Dora* reported in (2019) 7 SCC 359 held that a litigation is based on adjudication on the merits of the contentions of the parties. Litigation should not be terminated by default, either of the plaintiff or the defendant. The cause of justice does require that as far as possible, adjudication be done on merits.



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N. SATHISH KUMAR, J.

6. Accordingly, this revision petition stands dismissed. No costs. Consequently connected application stands dismissed. The appellate Court shall expedite the appeal proceedings.

07.01.2025

Index : Yes / No
Speaking/non speaking order
dhk

To,

1. The Principal Sub Judge
Principal Sub Court, Coimbatore

2. The District Munsif,
District Munsif Court, Sulur

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