



C.R.P.(MD)No.737 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.02.2025

CORAM:

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

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1. Murugesan
2. Ponnar
3. Ramasamy
4. Vengalappan
5. S.Ramasamy

... Petitioners
Appellants – Defendants 1 to 5

Vs.

Kaliappan (Died)

1. Kaliyammal
2. Logapriya
3. Vignesh
4. Chinnakaruppan

... Respondents
Plaintiffs 2 to 4 and 6th Defendant

Prayer: The Civil Revision Petition has been filed under Section 115 of C.P.C, to set aside the fair and decretal order dated 30.10.2023 passed in I.A.No.1 of 2023 in A.S.S.R.No.879 of 2021 on the file of the Hon'ble Subordinate Judge, Manapparai and set aside the same by allowing the present civil revision petition. .



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For Petitioner : Mr.K.S.Kathiravan

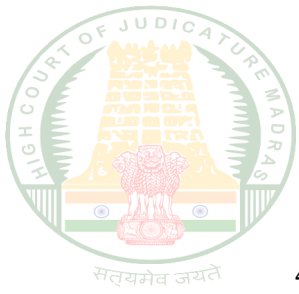
For R1 to R3 : Mr.P.Ganapathi Subramanian

ORDER

The defendants in O.S.No.207 of 2013 on the file of the Additional District Munsif, Manapparai is the revision petitioners herein.

2. The respondents herein had filed the above said suit for the relief of declaration of title and for permanent injunction. The suit was decreed on 03.01.2019. The defendants had filed the appeal before the Sub Court, Manapparai with a delay of 667 days. The defendants had filed I.A.No.1 of 2023 in A.S.S.R.No.879 of 2021 to condone the said delay.

3. A perusal of the affidavit in the above said application reveal that the defendants have contended that due to outbreak of Covid-19 Pandemic they were not able to file the appeal in time. The defendants further contended that they were not in town and they were working elsewhere and hence there is a delay.



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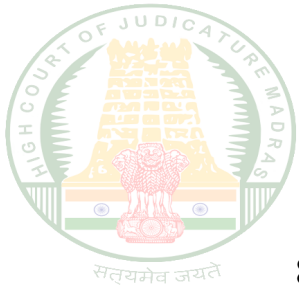
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4. The said application was resisted by the revision petitioner/decreed holder. The Trial Court after considering the affidavit and the oral evidence of the appellants had proceeded to dismiss the condone delay application, on the ground that the defendants have not explained the delay properly. Challenging the same, the present civil revision petition has been filed.

5. According to the learned counsel appearing for the revision petitioner, the defendants were not in town and since they were working elsewhere, there was a delay in filing the first appeal. Hence, he prays to take lenient view.

6. However, learned counsel for the respondents / decreed holder strongly objected to the said contentions and submitted that the defendants have not properly explained the delay and in such circumstances, liberal view cannot be taken by the Court.

7. I have carefully considered the submissions on either side and perused the materials available on records.



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8. The Trial Court had decreed the suit on 03.01.2019. The appeal has to be filed before the Appellate Court within a period of thirty days. Therefore, the petitioner cannot contend that due to Covid-19 Pandemic, they were not in a position to file an appeal. Though the petitioners have contended that they were working elsewhere and hence they could not file the appeal, no details have been furnished when they had left the town and where were they working.

9. In such circumstances, the petitioners herein having not explained the delay properly, especially the huge delay of 667 days, this Court is of the considered opinion that the 1st Appellate Court had rightly rejected the condoned delay application.

10. In view of the above said facts, there are no merits in the revision petition. Accordingly, this civil revision petition is dismissed. No costs.

07.02.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



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- To
- 1.The Subordinate Judge, Manapparai.
 - 2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J.

rgm

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