



C.R.P(MD)No.2594 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 08.01.2025

CORAM :

THE HONOURABLE Mr. JUSTICE G.ILANGO VAN

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Ramaiapillai (Died)

1.Velammal

Surulivel (Died)

2.Sankaranarayanan

3.Palsamy

4.Thayammal

5.Govindharaj

6.Maheshwari

7.Surulivel

... Petitioners / Appellants 2 ,4 to 9

Vs

1.Murugesan

2.Shanmugam

... Respondents / Defendants

Prayer : This Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal orders passed in I.A.No.127 of 2015 in unnumbered A.S.No.--of 2015 on the file of the Principal Sub Court, Srivilliputtur dated 02.07.2024.



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For Petitioners : Mr.M.Ashok Kumar

For R1 : No appearance

For R2 : Mr.M.Thirunavukkarasu

ORDER

This Civil Revision Petition is filed to set aside the fair and decreetal orders passed in I.A.No.127 of 2015 in unnumbered A.S.No.-- of 2015 on the file of the Principal Sub Court, Srivilliputtur dated 02.07.2024.

2. The suit in O.S.No.334 of 2003 was filed by the respondent herein seeking the relief of declaration and permanent injunction. In which, the revision petitioner entered appearance, filed their statement. After full trial, the trial Court dismissed the suit without any cost. Against which, the respondent intended to file an appeal before the appellate Court and in preferring the appeal, there is a delay of 1572 days. To condone the delay, a petition was filed under Order 41 Rule 3 of C.P.C and under Section 5 of Limitation Act, stating that the learned



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counsel on record informed them to take steps to file an appeal. But the fifth petitioner's wife died. So he went out of station, unable to meet his advocate and file the appeal in time. Now he came down to the village and met the advocate. At that time, he was told that there is a delay of 1572 days to file the appeal. On that account, this petition is filed. That was resisted by the respondent stating that the delay was not properly explained and there was no medical records to show that the fifth petitioner was affected by Jaundice.

3. After hearing both sides, the appellate Court found that the reasons were not properly mentioned and the reasons stated are also not acceptable. That application was dismissed. Against which this Civil Revision Petition is preferred by the plaintiff.

4. Heard both sides.

5. Learned counsel for the revision petitioner would submit that since the main suit is one for declaration and permanent injunction due opportunity may be extended to them to challenge the dismissal by the



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trial Court. The reason assigned by them is a bonafide one and the respondent may be compensated by way of cost.

6. Per contra, learned counsel for the respondent would submit that eventhough it is stated by the petitioner that the fifth petitioner's wife died and because of that only there is delay. What happened to other petitioners is not explained by them. He is relying upon the order of this Court made in CMP(MD)No.10789/2023 and would submit that the reasons assigned are not acceptable and proper also.

7. Reading of the typed set of papers filed shows that in the counter affidavit filed by the respondent, they have stated that earlier in I.A.No.128 of 2015 was filed to condone the delay in representing the petition. In that petition, according to the respondent, the petitioner has stated that they suffered jaundice and because of that only there is a delay of 208 days in making representation. Against that a contra reason is mentioned. The order copy in I.A.No.128 of 2015 is not placed before this Court. No finding can be recorded in this regard. But reading of the order passed by the appellate Court shows that the contra reason was not



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mentioned in the petition to condone the delay in representation of the main petition. So it is seen that even the main petition was not properly prosecuted by the revision petitioner. On going through the judgment of the trial Court and reasons assigned by the appellate Court in dismissing the petition, I find absolutely no merit in this Civil Revision Petition. .

8. With the above, this Civil Revision petition is dismissed of. No costs.

08.01.2025

NCC :Yes/No
Index :Yes/No
Internet : Yes/ No

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To

- 1.The Principal Sub Court, Srivilliputtur.
- 2.The Section Officer, VR Section,
Madurai Bench of Madras High Court, Madurai.

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G.ILANGO VAN, J.

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