



CMP(MD)No.14726 of 2023
in
SA(MD)No.502 of 2022

WEB C B.PUGALENDHI,J.

This civil miscellaneous petition is filed to condone the delay of 99 days in filing the petition to set aside the dismissal order dated 31.03.2023 passed in SA(MD)No.502 of 2022.

2.This second appeal was filed by the defendants in the suit as against the concurrent findings of the courts below in OS.No.3 of 2014 and AS.No.71 of 2018. The respondents / plaintiffs have filed the suit in OS.No.3 of 2014 before the learned Principal District Munsif, Kumbakonam seeking permanent injunction restraining the appellants / defendants from interfering with the peaceful possession of the suit schedule property. The suit was decreed in their favour and the appeal preferred by these appellants before the learned Principal Sub Judge, Kumbakonam in AS.No.71 of 2018 was also dismissed by judgment and decree dated 28.03.2022.

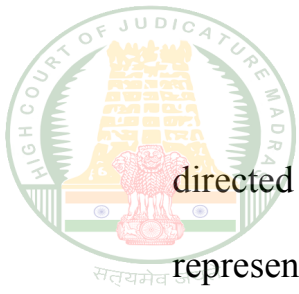
3.When this second appeal was listed for admission on 28.07.2022 a request was made on behalf of the appellants and therefore the appeal was adjourned by two weeks. Thereafter the appeal was listed on 15.03.2023 on



that day there was no representation on the side of the appellants.

Therefore, this Court directed the Registry to list the case under the caption for dismissal on 17.03.2023. On 17.03.2023 a representation was made on behalf of the appellants that a new counsel has entered appearance for the appellants namely one Prasanna Rajadurai and therefore at his request the case was adjourned to 21.03.2023. On 21.03.2023 a representation has been made on behalf of the appellants that the case was wrongly listed on 21.03.2023 instead of 31.03.2023. Therefore, it was adjourned to 31.03.2023. Even on 31.03.2023 the learned Counsel for the appellants did not proceed with the second appeal and represented that their vakalath has been returned by the Registry. Considering this attitude of the appellants in not prosecuting the appeal, this Court by order dated 31.03.2023 has dismissed the second appeal for non-prosecution.

4.This present petition has been filed with a delay of 99 days in filing the petition to set aside the judgment dated 31.03.2023. Even in this petition there was no proper representation on 11.09.2024. Considering the earlier orders passed by this Court dated 31.03.2023, this Court was not inclined to entertain this petition, however, at the request of the learned Counsel for the petitioners / appellants, it was adjourned to 18.09.2024. Even on 18.09.2024 there was no representation for the appellants and therefore, Registry was



directed to list the matter under the caption for dismissal. Today a representation has been made by the learned Counsel

Mr.S.Palanivelayudham that the learned Counsel on record is out of station.

The representing Counsel is also not equipped with the second appeal.

5.This Court perused the materials placed on record.

6.These appellants claiming to be the cultivating tenants have interfered with the possession of the respondents / plaintiffs and therefore, the respondents have filed the above suit for permanent injunction. The trial Court and the first appellate Court have elaborately discussed the matter and granted injunction in favour of the plaintiffs. Though the appellants have preferred the second appeal on 29.04.2022 as against concurrent findings of the Courts below, the appellants have not taken steps to prosecute the second appeal. This second appeal was not even admitted and also was dismissed for non prosecution. Even in this petition there was no representation for the petitioners / appellants. Therefore, this Court is not inclined to entertain this application. Accordingly this civil miscellaneous petition is dismissed.

24.09.2024



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B.PUGALENDHI,J.

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