



C.R.P.(NPD)(MD).No.1081 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.02.2025

CORAM

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD).No.1081 of 2024

1.Muthuramu

2.Rajaram

... Petitioners

-VS-

1.Muthulakshmi (died)

2.Ponnalagu

...Respondents

(Memo dated 03.07.2018 filed on 04.07.2018 in USR.No.2953 is recorded to the effect that R1 died and R2 who is already on record is recorded as L.R of the deceased R1 vide Court order dated 28.03.2024)

PRAYER: The Civil Revision Petition has been filed under Section 115 of C.P.C, to set aside the fair and decreetal order dated 27.03.2014 passed in I.A.No.84 of 2013 in O.S.No.116 of 1999 on the file of the District Munsif Court, Nilakkottai and allow the present civil revision petition.

For Petitioners : Mr.R.Subramanian

For Respondent : Mr.Rajpal Singh for R2



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ORDER

The plaintiffs in O.S.No.116 of 1999 on the file of the District Munsif Court, Nilakkottai are the revision petitioners herein.

2.The above said suit was filed for the relief of permanent injunction not to disturb their possession. When the suit was posted for trial, due to non-appearance of the plaintiffs, it was dismissed for default on 08.02.2010. The restoration application was filed on 04.03.2010 and the same was returned for rectification of certain defects. However, the restoration application was represented with a delay of 1359 days to condone the delay in representation, I.A.No.84 of 2013 was filed. The said application was dismissed by the trial Court. Challenging the same, the present civil revision petition has been filed.

3.According to the revision petitioner, the restoration application was filed in time, but there was a delay in only representing the papers. Therefore, a liberal view ought to have been taken by the trial Court.

4.Per contra, the learned counsel for the respondents/defendants had strongly objected to the submissions made by the learned counsel for the petitioners and he contended that previously the suit was dismissed for



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default on 02.12.2008 and it was restored again on 10.12.2009. Therefore, the present default has been committed for the second time and therefore, a liberal view cannot be taken. He had further contended that the reason assigned in the condone delay application is not believable. The plaintiffs had not explained each and every delay in representing the application for restoration.

5.I have considered the submissions made on either side and perused the material records.

6.An application to restore the suit has been filed in time. But the said application was returned for rectification of defects. According to the plaintiff, he was working in Tirupur. He was taking native treatment in Kerala for his stomach pain and therefore, the restoration application could not be represented in time. The said reason has not been believed by the trial Court.

7.Considering the fact that the restoration petition was filed in time and there was only a delay in representation, this Court is of the considered opinion that such a delay could be condoned by imposing appropriate cost upon the petitioners. The order impugned in the revision petition is set aside and I.A.No.84 of 2013 shall stand allowed on payment



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of cost of Rs.10,000/- to the credit of 'High Court Legal Aid Services Committee' Madurai Bench of Madras High Court, Madurai on or before 28.02.2025.

8.Post for reporting compliance, post on 03.03.2025.

12.02.2025

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

To

1.The High Court Legal Aid Services Committee
Madurai Bench of Madras High Court,
Madurai

2.The District Munsif, Nilakkottai

3.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR, J

msa

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