

C.R.P.No.1850 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 29.04.2024

CORAM :

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Civil Revision Petition No.1850 of 2020

Palanisamy Gounder (Died)

1. Kumarasamy
2. Periyammal
3. Govindammal
4. Mani

.. Petitioners

Versus

Chinnasamy (Died)

2. Saraswathy
3. Ramamoorthy

.. Respondents

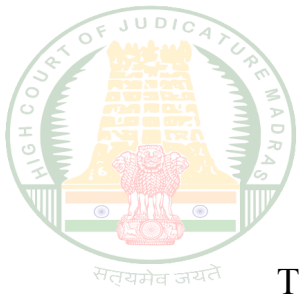
(Respondents 2 and 3 are brought on record as Legal Representatives of the deceased sole Respondent viz., Chinnasamy vide Court order dated 21.01.2021 made in C.M.P.Nos.13382, 13684 and 13687 of 2020 in C.R.P.No.1850 of 2020)

Civil Revision Petition is filed under Section 115 of the Constitution of India, against the fair and final order dated 04.12.2015 made in I.A. No. 25 of 2013 in A.S.C.F.R. No. 8568 of 1998 on the file of Principal District Court, Erode.

For Petitioners : Mr. N.S. Sivakumar

For Respondents : Mr. V. Raghunathan

ORDER



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This Civil Revision Petition had been filed against the fair and final order dated 04.12.2015 made in I.A. No. 25 of 2013 in A.S.C.F.R. No. 8568 of 1998 on the file of the learned Principal District Judge, Tiruppur.

2. The brief facts, which are necessary for the disposal of this Civil Revision Petition, are as follows:-

2.1. The deceased Chinnasamy Gounder, whose legal heirs are brought on record as Respondents 2 and 3 in this Revision, has filed the suit in O.S. No. 111 of 1990 for specific performance of the agreement of sale dated 22.08.1989. After contest, the suit was decreed in favour of the sole Plaintiff by judgment dated 17.03.1998. Aggrieved by the same, the first Defendant in the suit filed Appeal in A.S.CFR No.8568 of 1998 on 17.08.1998 with a delay of only three days in filing the Appeal. However, the Memorandum of Appeal was returned for setting right certain defects. While it was pending for compliance of returns, the Revision Petitioners were called upon for a compromise. Therefore, the Revision Petitioners entered into a compromise with the Plaintiff/Decree Holder in the presence of Panchayatdars namely P.Paramasivam, P.Muthusamy, K.Chinnappan and P.Natarajan. The Panchayatdars directed the first Defendant to pay back the advance sale amount with interest within a period of five years by way of installments. The said



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direction of the Panchayatars was agreed to by the Plaintiff as well as Defendants. It is stated that on the date of agreement on 22.08.1989, the Revision Petitioners/ Defendants received Rs.65,000/- as advance. Therefore, they paid the said amount along with interest at the rate of 12% p.a. to the tune of Rs.75,000/- on various instalments. Therefore, the Revision Petitioners were under the *bona fide* belief that the Plaintiff/Decree Holder will not proceed with the decree passed by the trial Court. However, to the surprise of the Revision Petitioners/Defendants, they received a notice in Execution Petition in E.P. No. 133 of 2009 in O.S. No. 111 of 1990 on the file of the learned Subordinate Judge, Dharapuram seeking to execute sale deed in their favour.

2.2. On receipt of notice in E.P. No. 133 of 2009, a counter statement was filed. After notice in the execution proceedings, the Defendants also met the Panchayatars and informed about the steps taken to execute the sale deed. The Panchayatars also assured to meet the Respondents. In this fashion, the issue was postponed for two years and at last the Panchayatars advised to take steps through the Court.

2.3. According to the first Petitioner in this Civil Revision Petition, who is the son of the deceased Palanisamy Gounder/sole Defendant, he met his Counsel at Erode during February 2012 and enquired about the status of the Appeal. However, his Counsel has informed that the papers could not be



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traced. Ultimately, only during December 2012, the material papers were traced and advised me to file the Appeal. Immediately, the papers were handed over to a new Counsel during December 2012 to re-present the Memorandum of Appeal. On enquiry by the present Counsel, it came to light that there is delay in filing the Appeal and it has to be condoned and to pay court fee along with the memorandum of Appeal. Accordingly, I.A. No. 25 of 2013 was filed under Section 5 of The Limitation Act praying to condone the delay of 5211 days in re-presenting the Memorandum of Appeal.

2.4. On notice, a counter statement was filed by the Respondent/Plaintiff stating that even though an Appeal was filed, it was not purposely prosecuted. Even in E.P. No. 133 of 2009, the Revision Petitioners/Defendants engaged one Advocate by name Thiru. P. Rathinasamy, of Kangeyam and he filed vakalath on 07.12.2009. After several adjournments, since the revision petitioner- Defendants did not contest the Execution Petition, a sale deed was registered on 29.07.2011 on the file of Sub-Registrar, Chennimalai. Thereafter, to take delivery of the property covered in the sale deed, E.P. No. 217 of 2011 was filed in which also notice was served. On notice, the Revision petitioners/Defendants engaged one Advocate Mr. Shanmuga Sundaram, who filed Vakalath on 23.01.2012. However, for several months no counter was filed and therefore, on 03.12.2012 possession of the



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property was delivered to the Respondent – Chinnasamy Gounder by the Court

Amin on 09.01.2013 and the same was recorded and the Execution Petition No.

217 of 2011 was closed on 17.01.2012.

2.5. As far as the convening of Panchayat is concerned, it is submitted that no such compromise had ever taken place in the presence of Panchayatars and the named Panchayatars are not known to the Respondent/Plaintiff. At no point of time, the Respondent/Plaintiff agreed to receive back the advance amount of Rs.65,000/- within five years, with interest or the amount of Rs.75,000/- was not paid to the Respondent/Plaintiff. The Revision Petitioners/Defendants are fully aware of the Execution Petition filed for executing the sale deed as well as the delivery of possession in which they have entered appearance through Advocate. Furthermore, the Appeal filed against the decree passed in the suit also was not even numbered. When the Respondent/Plaintiff has got the sale deed executed through the Court and possession was also delivered on 09.01.2013, the petition for condoning 5211 days in re-presenting the Appeal is legally not sustainable and it is liable only to be dismissed. The trial Court, taking note of the above facts has rightly dismissed the petition to condone the delay and it calls for no interference.

2.6. In I.A. No. 25 of 2013, the first Revision Petitioner herein has filed a proof affidavit under Order XVIII, Rule 4 of the Code of Civil Procedure

<https://www.mhc.tn.gov.in/judis>

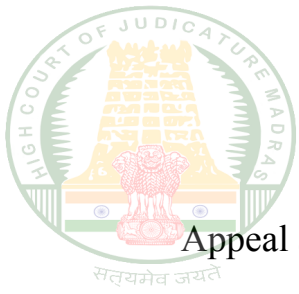


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justifying that the delay had occurred beyond his control. On 13.09.2013, he was also cross-examined on behalf of the Counsel for the Respondent /Plaintiff. Upon considering the oral and documentary evidence, the learned District Judge, Thirupur by the order dated 04.12.2015 refused to condone the delay and dismissed the application to condone the delay of 5211 days in re-presenting the Appeal Memorandum.

2.7. Aggrieved by the order of dismissal dated 04.12.2015 passed in I.A.No.25 of 2013 in A.S. CFR No.8568 of 1998, this Civil Revision Petition has been filed.

3. The learned Counsel for the Revision Petitioners, at the outset, submitted that the Appeal was filed in time, but the delay had occurred due to re-presenting the Appeal Memorandum. As a litigant, he had reposed faith and confidence in his Advocate and it is his duty to swiftly re-present the Appeal as and when it was returned for any defects. However, the Counsel engaged by the Revision Petitioners failed to comply with the defects pointed out by the Court and it cannot be put against the Revision Petitioners. In any event, when the Appeal has been filed in time and the delay has caused only in respect of re-presenting the Appeal, the Court below ought to have condoned the delay instead of ousting the Revision Petitioners/Defendants from contesting the



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Appeal against the decree passed in the suit in O.S. No. 111 of 1990.

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4. The learned Counsel for the Revision Petitioners/Defendants further submitted that the delay in filing an application need not be weighed by the Court below and it has to examine the reasons assigned for such delay. If the reasons assigned is considered, the Revision Petitioners/Defendants have clearly stated that they were deceived by the Respondent-Plaintiff in the guise of compromising the dispute. In the presence of Panchayatars, a decision was arrived which was adhered to by the Plaintiff and Defendant. As per the compromise, the Defendant also paid Rs.75,000/- together with interest on various dates. Having received money in lieu of executing the decree, the Respondents/Plaintiffs, filed the Execution Petition for executing the sale deed in their favour. The Appellate Court also without affording an opportunity to the Revision Petitioners/Defendants dismissed the application to condone the delay in re-presenting the Appeal Memorandum. The Appellate Court ought to have liberally considered the period of delay and ought to have condoned the delay.

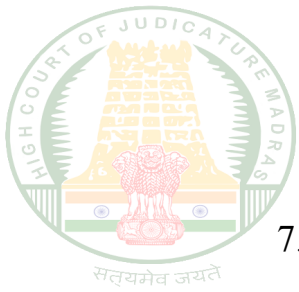
5. The learned Counsel for the Revision Petitioners/Defendants also submitted that the unregistered agreement of sale has been entered into to sell the land measuring 4 acres 67 cents in Parenchervazhi Village, Kangeyam



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Taluk, Erode District for Rs.65,000/- and it was made as if the agreement was executed to discharge the previous mortgage owned by the Plaintiff for Rs.11,000/- under Ex.A-5. While so, alleging that the sale deed has not been executed after receipt of Rs.65,000/- the suit was filed by the Respondent/Plaintiff. The suit was decreed and with a delay of 3 days in filing the Appeal, the Appeal was filed on 17.08.1998. The appeal papers were returned on 19.08.1988 and it was again re-presented on 08.09.1998. Again it was returned on 11.09.1998.

6. The learned Counsel for the Revision Petitioners/Defendants further submitted that the second Defendant/second Petitioner herein namely Kumarasamy entered into the witness box and narrated about the compromise entered into between the parties in the presence of Panchayatars besides the payment of Rs.75,000/- made to the Plaintiff. Further, one of the Panchayatars namely Nataraan was examined as P.W-2 in chief, but he was not subjected to cross-examination. The fact that there was a panchayat in which a decision was taken to refund the advance amount with interest over a period of five years would stand testimony to the fact that the Respondent/Plaintiff waited for the implementation of the decision of the panchayat but at the last minute, filed the Execution Petition just before the expiry of the period of limitation.



7. As far as the delay in re-presenting the Appeal Memorandum is concerned, the original memorandum of appeal was lost in the office of the Advocate and it could be traced. Only during the month of December 2012, the blank signed stamp papers have been obtained during the mortgage loan on 20.08.1997 and it was conveniently fabricated as an unregistered agreement of sale after 2 years in order to grab the valuable property. The Appellate Court, in the given facts narrated above, ought to have condoned the delay in re-presenting the Appeal Memorandum. However, the Appellate Court mechanically dismissed the application for condonation of delay in re-presentation of the Appeal Memorandum.

8. In support of his contention, the learned Counsel for the Revision Petitioners/Defendants placed reliance on the decision of the Honourable Supreme Court in the case of ***Collector, Land Acquisition, Anantnag and another vs. Mst. Katiji and others*** reported in ***(1987) 2 Supreme Court Cases 107*** and submitted that the power to condone the delay under Section 5 of the Limitation Act has been conferred to do substantial justice to parties by disposing of matters on merits. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the ends of justice. Thus, to condone, or not to condone, is not the only question. But whether or not to apply the same



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standard in applying the expression “sufficient cause” test to all the litigants regardless of their personality in the said context is another.

9. He has also placed reliance on the decision in ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy and others*** reported in ***(2013) 12 Supreme Court 649*** wherein it was held that the terms “sufficient cause” should be understood in their proper spirit, philosophy and purpose regarding being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation. Thus, it is submitted by the learned Counsel for the Revision Petitioners/Defendants that the Appellate Court ought to have adopted the liberal approach theory in order to render substantial justice. However, the Appellate Court mechanically passed the order declining to condone the delay and therefore, he prayed for allowing the present Civil Revision Petition.

10. Per contra, the learned Counsel for the Respondent submitted that the suit in O.S. No. 111 of 1990 was decreed after contest on 17.03.1998. The Petitioners/Defendants filed an appeal suit in AS CFR No. 8568 of 1998 with a delay of 5 days. In the Appeal, the Appellant paid Court fee of only Rs.1.50 and therefore, the Appeal was returned for rectifying the defects. In this context, he invited the attention of this Court to the Court fee paid by the



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Plaintiff in the decree.

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செலவுத் தொகைப் பட்டியல்

வாதிதரப்பு

பிரதிவாதிகள் தரப்பு

	ரூ.பை	
1. தாவாவிிற்கு முத்திரைக்கட்டணம்	4875.00	
2. வழக்கேற்பிதழ் கட்டணம்	1.50	
3. கட்டளைகளை சேர்ப்பிக்க	13.50	
4. கட்டளைகளை தயாரிக்க	1.00	(தாக்கல் இல்லை)
5. தட்டச்சுக் கட்டணம்	25.00	
6. வழக்கறி"ர் கட்டணம்	2250.00	
<u>மொத்தம்</u>	<u>7466.00</u>	

11. The learned Counsel for the Respondents also invited the attention of this Court to Paragraph 3 of the counter statement filed by the Respondent in I.A. No. 25 of 2013 which reads as follows:-

"3. This Respondent filed an execution petition E.P. No. 133/2009 in O.S. No. 111/1990 on the file of the Subordinate Judge of Dharapuram. In that these petitioners engaged Thiru P. Rathinasamy, Advocate of Kangayam and he filed vakalath on 07.12.2009. After several adjournments ie. 20.01.2010, 25.02.2010, 26.05.2010 etc., this petition was finally posted to 24.11.2010 and the learned Judge passed order to file draft sale deed. Accordingly draft sale deed was filed and then original sale (Fair sale) sale deed on Non Judicial stamp paper was filed and the same was registered on 29.07.2011 at Chennimalai Sub Register Office. All these proceedings are well known to these petitioners. As a matter of fact the second petitioner Kumarasamy was in the Sub Registrar Office, Chennimalai when the sale deed was registered. Thereafter this E.P. 133/2009 was closed."

12. The learned Counsel for the Respondents invited the attention of this Court to Page 62 and 63 of the typed set wherein the observation of the



Appellate Court in para No. 10 was enclosed. The order of the Appellate Court

will be apposite for this case and it reads as under:-

“10. அசல் வழக்கில் 17.03.1998 ம் தேதியில் பிறப்பிக்கப்பட்ட தீர்ப்பாணையின் அடிப்படையில் எதிர்மனுதாரர் நிறைவேற்றுகை நடவடிக்கைகள் எடுத்துள்ளதில் 1, 2 மனுதாரர்கள் வழக்கறிஞர் மூலம் ஆஜராகி இருந்துள்ளனர். நிறைவேற்றுகை நடவடிக்கையின் அடிப்படையில் எதிர்மனுதாரர் பெயரில் 29.07.2011 ம் தேதியில் கிரையப் பத்திரம் எழுதிக் கொடுக்கப்பட்டு சொத்தின் சுவாதீனமும் எதிர்மனுதாரர் வசம் 09.01.2013 ம் தேதியில் ஒப்படைப்பு செய்யப்பட்டுள்ளது. வருவாய்த்துறை எதிர்மனுதாரர் தரப்பில் தெரிவிக்கப்பட்டுள்ளது. தீர்ப்பாணை பிறப்பிக்கப்பட்டு வெகு நாட்கள் கழித்து அந்த தீர்ப்பாணையின் பேரில் மேல்முறையீடு தாக்கல் செய்வதில் ஏற்பட்ட 5211 நாட்கள் காலதாமதத்தை மன்னிக்கக்கோரி இம்மனுவானது 07.01.2013 ம் தேதியில் தாக்கல் செய்யப்பட்டுள்ளது. பஞ்சாயத்து நடந்ததால் தான் மேல்முறையீடை திரும்ப சமர்ப்பிக்காமல் இருந்து விட்டதாக மனுதாரர்கள் கூறவது நம்பும்படியாகவும் ஏற்கும்படியாகவும் இல்லை. நீண்ட வருடங்கள் பேசாமல் இருந்து விட்டு எதிர்மனுதாரர்கள் நீதிமன்றத்தின் மூலம் கிரையப்பத்திரம் எழுதிப்பெற்ற 29.07.2011 ம் தேதியிலிருந்து இம்மனு தாக்கல் செய்த 07.01.2013 வரை சுமார் ஒன்றரை வருடங்கள் கழித்து இம்மனுவை தாக்கல் செய்துள்ளது நீதிமன்றத்தின் மூலம் பெற்ற எதிர்மனுதாரரின் சுவாதீனத்தை இடையூறு செய்வதற்காகத்தான் என்று தான் கருத இடம் அளிக்கிறது. ஒவ்வொரு நாள் காலதாமதத்திற்கும் விளக்கம் அளிக்க வேண்டியது மனுதாரருடைய கடமை ஆகும். மனுதாரர்கள் தரப்பில் மேல்முறையீடை திரும்ப சமர்ப்பிப்பதில் ஏற்பட்ட காலதாமதத்திற்கும் கூறப்படும் காரணங்கள் நம்பும்படியாகவும் இந்நீதிமன்றம் திருப்தி அடையும் வகையிலும் காணப்படவில்லை. எனவே திருப்பப்பட்ட மேல்முறையீட்டை திரும்ப சமர்ப்பிப்பதில் 5211 நாட்கள் காலதாமதம் ஏற்பட்டதற்கு மனுதாரர்கள் கூறும் காரணம் ஏற்கும்படியாக இல்லை என்றும் மேற்படி காலதாமதம் மன்னிக்கும்படியாக இல்லை என்றும் என்று இந்நீதிமன்றம் முடிவு செய்கிறது.”

13. The learned Counsel for the Respondents also invited the attention



of this Court Page 34 and 35 of the typed set wherein the affidavit filed by the

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Revision Petitioners in I.A. No. 25 of 2013 is enclosed, wherein it was stated

as follows:-

“5. I submit that suddenly in the month of November 2009, we have received a notice in EP No.133 of 2009 in O.S.No.111 of 2009 on the file of the Subordinate Judge Court, Dharapuram and after received the notice, we came to know that the Respondent herein has filed the above said execution proceedings to get the sale Deed through Court of Law. In the above Execution Proceedings we have filed Counter statement, after service of notice in the above said execution proceedings, we met the panchayators and enquired the same and the panchayators also taken steps to meet the Respondent. But the Respondent postponed the same nearly for two year and dragged us and the panchayators here and there and did not meet the panchayators and avoid to meet the Panchayators. At last, the Panchayators advised me to take steps through Court of Law.”

14. According to the learned Counsel for the Respondents, what prevented the Petitioners to examine the Panchayatars before the trial Court as witness regarding claim of convening the panchayat. Considering the above, the Appellate Court is right in declining to condone the huge and unexplained delay and it need not be interfered with by this Court.

15. By way of rejoinder, the learned Counsel for the Revision Petitioners invited the attention of this Court to the exhaustive cross examination of first Revision Petitioner as P.W-1. Further, one of the Panchayatars by name Nataraj was examined as P.W-2 by the Revision Petitioners on his side to prove the fact that there was a Panchayat. However,



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for the reasons unknown, P.W-2 was not cross-examined by the Respondents/Plaintiffs. This was not properly considered by the Appellate Court, while refusing to exercise the discretionary relief conferred under Section 5 of The Limitation Act to give one more opportunity to the Revision Petitioners/Defendants. A meritorious case cannot be thrown out on the ground of delay. Accordingly, the learned Counsel for the Revision Petitioners prayed this Court to allow this Civil Revision Petition.

Point for consideration:

Whether this Revision Petition is to be allowed and the order dated 04.12.2015 passed by the learned Principal District Judge, Tiruppur in I.A.No.25 of 2013 in A.S. CFR No.8568 of 1998 is to be set aside?

16. Heard the learned Counsel for the Revision Petitioners and the learned Counsel for the Respondents. Perused the typed set and the order passed by the learned Principal District Judge, Tiruppur in I.A. No. 25 of 2013 in unnumbered appeal on the file of the learned Principal District Judge, Tiruppur.

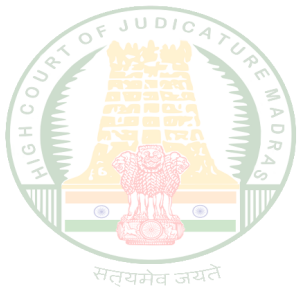
17. The suit in O.S. No. 111 of 1990 was filed for specific performance of the agreement of sale dated 22.08.1989. The suit was decreed



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after contest on 17.03.1998 and it is not disputed by the Revision Petitioners/Defendants. It is also not in dispute that an appeal was filed assailing the judgment and decree dated 17.03.1998 passed in O.S. No. 111 of 1990. The Appeal was returned for complying with certain defects, such as correct court fee etc., However, the defects have not been complied and the Appeal Memorandum was returned soon after it was presented by complying with the defects.

18. According to the Revision Petitioner-Defendants, during the pendency of the Appeal, a compromise was mooted and the matter was also settled by paying Rs.75,000/- as against the sum of Rs.65,000/- received as sale advance. It is alleged by the Revision Petitioners/Defendants that having received the amount of Rs.75,000/- at the fag end of expiry of the period of limitation, they have filed E.P. No 113 of 2009 in which notice was issued to the Revision Petitioners/Defendants. Admittedly, in the Execution Petition, the Revision Petitioners/Defendants engaged an Advocate, however, no counter has been filed in the Execution Petition. It is stated that the Execution Petition was adjourned from time to time from 03.12.2012 and the possession of the property was also delivered on 09.01.2013. While so, the instant petition in I.A. No. 25 of 2013 was filed for condoning the delay of 5211 days in representing the Appeal Memorandum.



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WEB COPY19. It is evident that the Appeal was filed on 17.08.1998. When it was returned for complying with certain defects, the Revision Petitioners/Defendants ought to have complied with those defects within a reasonable time. However, until the year 2009 when the notice in the EP No. 133 of 2009 the Appeal Memorandum was kept pending. This is one of the flaws committed by the Revision Petitioners/Defendants and the reason for the delay of about 11 years remain unexplained.

20. It is noted that in the Execution Petition, the Revision Petitioners/Defendants engaged an Advocate, but did not file their counter. With the result, in E.P.No. 113 of 2009 in OS No. 111 of 2009, after several adjournments, sale deed was executed in favour of the Respondents/Plaintiffs and it was also registered on 29.07.2011 on the file of Sub-Registrar, Chennimalai. By the time the sale deed was executed on 29.07.2011 in the Execution Petition, the Revision Petitioners are represented by a Counsel. It is also to be stated that to take delivery of the property covered in the sale deed dated 29.07.2011, E.P. No. 217 of 2011 was filed in which also notice was issued to the Revision Petitioners/Defendants and they entered appearance through an Advocate. However, even in E.P. No. 217 of 2011, the Revision Petitioners did not file any counter and they left the matter to be decided on its



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own merits. As a result, the Amin of the Court had taken delivery of possession on 09.01.2013 itself. Thus, much water had flown under the bridge and it is too late in the day for the Revision petitioners/Defendants to make attempt to set the clock back.

21. It is true that in considering the delay in filing an Appeal or the delay in re-presenting the Appeal, the Court can adopt a liberal approach. However, in the present case, such a liberal approach is not warranted because, the Petitioners were not diligent in asserting their right. At every stage, they caused delay. The Appeal was filed in the year 1998 and now almost 26 years have lapsed. As mentioned above, in the meantime, the Respondents/Plaintiffs have obtained sale deed from the Court and also delivery of possession. It is also stated that after taking delivery of possession, revenue records have also been mutated. When notice was given to the Revision Petitioners/Defendants in the successive execution petitions, one for execution of sale deed and another for taking delivery, at least, at that stage, the Revision Petitioners/Defendants ought to have been vigilant. While so, the liberal approach theory cannot be exercised in this case.

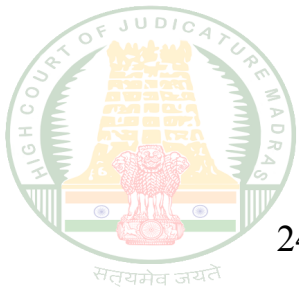
22. On perusal of the order of the learned Appellate Judge, it is found to be well reasoned order and it is based on Court records. It does not warrant



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any interference by this Court. The learned Judge had observed the conduct of the Revision Petitioners in not filing the petition immediately on service of notice in the execution petition. Having allowed the execution Court to execute the sale deed and also to take delivery of possession, only with an ulterior motive, this petition was filed and it was clearly stated in the order of the learned Appellate Judge. Therefore, this Court is of the view that this Civil Revision Petition lacks merit and is to be dismissed.

23. In the light of the slackness exhibited by the Revision Petitioners/Defendants in taking steps to contest the Execution Petitions in which notice was served on them and they have also entered appearance through an Advocate, their contention that there was a compromise in which a decision was taken to return the advance amount was made and they have also repaid the amount with interest cannot be considered at this stage. It would amount to settling the unsettled judicial verdict. Further, it would cause prejudice to the Respondents/Plaintiffs who have obtained a decree in the suit after contest as also the sale deed through the Court. From the angle of a normal human conduct, the submission made by the Revision Petitioners to condone the delay of 5211 days in filing the Appeal Memorandum is found unacceptable besides being unexplained.



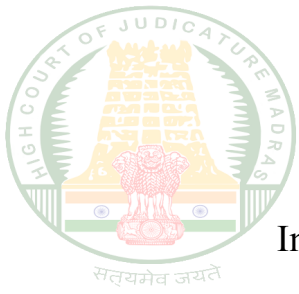
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24. In all the proceedings before the Execution Court, the Revision

Petitioners were parties, they received notice in the Execution Petition.

Therefore, they were not in the dark without knowing the developments in the case filed against them. The learned Principal District Judge, while discussing the subject matter of the dispute had clearly stated that the Revision Petitioners herein as Petitioners in I.A. No. 25 of 2013 in unnumbered A.S had knowledge of the proceedings till the execution petition was allowed, including execution of sale deed and subsequently taking delivery of the possession of the property. Furthermore, the Appeal was filed with a deficit court fee and it was returned time and again. However, the Revision Petitioners/Defendants did not comply those returns. If what had been stated by the Revision Petitioners is true, they ought to have resisted the execution proceedings by filing counter and seeking stay of the execution proceedings, but that was not done. Therefore, viewed from any angle, the Revision Petitioners have not made out any case.

25. In the light of the above discussion, the point for consideration is answered in favour of the Respondents and against the Revision Petitioners. The order dated 04.12.2015 passed by the learned Principal District Judge, Tiruppur in I.A.No.25 of 2013 in A.S.C.F.R. No. 8568 of 1998 is found proper and the same is to be confirmed.



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In the result, **this Civil Revision Petition is dismissed.** The fair and final order dated 04.12.2015 made in I.A. No. 25 of 2013 in A.S.C.F.R. No. 8568 of 1998 on the file of learned Principal District Judge, Tiruppur, is confirmed. There shall be no order as to costs.

29.04.2024

shl

Internet : Yes/No

Index : Yes/No

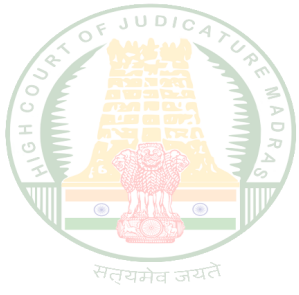
Speaking/Non-speaking order

Neutral Citation : Yes/No

To

1.The Principal District Judge,
Tiruppur.

2.The Section Officer,
Vernacular Records,
High Court Madras,
Chennai.



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SATHI KUMAR SUKUMARA KURUP, J

shl

Order made in
C.R.P.No.1850 of 2020

29.04.2024