

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :09.07.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.2334 of 2015 &

M.P.No.1 of 2015

1.S.Tamilzvani
2.S.Geethalakshmi

... Petitioners

v.

R.Subramani (died)

1.M.E.Anjaneyan
2.S.Katuri
3.S.Ashok Kumar
4.M.Mythili
5.S.Sridhar
6.S.Murugan
7.S.Jayasri

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order and decree dated 13.11.2014 made in I.A.No.410 of 2014 in O.S.No.153 of 2008 on the file of District Munsif Court, Sholingur, Vellore District.

For Petitioner : Mr.T.P.Prabakaran

O R D E R

Aggrieved over the fair and final order passed in I.A.No.410 of 2014 in O.S.No.153 of 2008 on the file of District Munsif Court, Sholingur, the plaintiffs 4 and 7 have filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in O.S.No.153 of 2008 for declaration, permanent injunction and mandatory injunction. The said suit is being contested by the defendant.

3. Earlier, a Commissioner was appointed in the suit and he has also filed a report before the Trial Court. Thereafter, in the year 2014, the defendant filed an application in I.A.No.410 of 2014 to condone the delay of 2168 days in filing the objections to the Commissioner's report and plan.

4. The learned counsel appearing for the revision petitioners submitted that the application has been filed by the defendant at a trial stage.

5. in the affidavit filed in support of the application, the defendant has stated that due to inadvertence, objections to the Commissioner's report was not filed in time. The application was contested by the plaintiffs. However, the Trial Court, after taking into consideration the case of both the parties, allowed the application on payment of cost of Rs.1,000/-.

5. The learned counsel appearing for the petitioners submitted that the evidences on the side of the plaintiffs were completed and the suit posted for the evidence of the defendant. That being the case, I am of the view that no prejudice would be caused to the plaintiffs if objection is received by the Trial Court to the Commissioner's report. That apart, if objection is not received by the Trial Court, the defendant would be put to hardship and prejudice. Taking into consideration all these aspects, the Trial Court has rightly allowed the application and condoned the delay.

6. In these circumstances, I do not find any reason to interfere with the order passed by the Trial court. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Since the suit is pending from 2008, I direct the District Munsif Court, Sholingur, to dispose of the suit in O.S.No.153 of 2008, on merits and in accordance with law, within a period of three months from the date of receipt of a copy of this order this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes
Rj

09.07.2015

To

The District Munsif Court,
Sholingur,

M. DURAISWAMY,J.,

Rj

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