

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD)Nos.4582 & 4583 of 2015 &

M.P.No.1 of 2015 in

C.R.P.(NPD)No.4582 of 2015

Muthu Manicka Nadar Trust
Chidambaram
rep. By its Trustee
T.C.Muthuraj
S/o.r.Thillai Chidambara Nagar
No.17, Muthumanicka Nadar street
Chidambaram

... Petitioner in both CRPs

v.

1.Sethu Ammal
2.Velayutham
3.Gandhimathi
4.Ramasamy
5.Vembu
6.Nedunchezhian
7.Durai @ Kaliyamoorthi
8.Meganathan

... Respondents in both CRPs

C.R.P.(NPD)No.4582 of 2014 filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 06.10.2015 in I.A.No.461 of 2014 in O.S.No.274 of 2012 on the file of the Additional District Munsif, Chidambaram.

C.R.P.(NPD)No.4583 of 2014 filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 13.10.2015 in I.A.No.461 of 2014 in O.S.No.274 of 2012 on the file of the Additional District Munsif, Chidambaram.

For Petitioner : Ms.R.Meenal

COMMON ORDER

Challenging the orders passed in I.A.No.461 of 2014 in O.S.No.274 of 2012 on the file of the Additional District Munsif, Chidambaram, the plaintiff has filed the above Civil Revision Petitions.

2. The plaintiff filed the suit in O.S.No.274 of 2012 for declaration, recovery of possession and for mandatory injunction. The defendants filed their written statement and were contesting the suit. Since the defendants failed to appear before the Trial Court, the Trial Court set them exparte and passed an exparte decree on 09.01.2014. Thereafter, the defendants filed an application in I.A.No.461 of 2014 to condone the delay of 135 days in filing the application to set aside the exparte decree dated 09.01.2014.

3. In the affidavit filed in support of the application, the petitioner has stated that since their counsel did not inform them about the contesting of the suit before the Trial Court, they could not appear before the Trial Court,

hence, they were set exparte and an exparte decree was passed. Further, the defendants have stated that they came to know about the exparte decree passed in the suit at a later point of time, therefore, there is a delay of 135 days in filing the application to set aside the exparte decree.

4. The plaintiff filed his counter disputing the averments stated in the affidavit filed in support of the application.

5. Before the Trial Court, on the side of the defendants, P.W.1 was examined and on the side of the plaintiff, R.W.1 was examined.

6. The Trial Court, after taking into consideration the case of both the parties and the oral evidences let in by the parties, allowed the application on payment of cost of Rs.300/-

7. As already stated, the suit has been by the plaintiff for declaration, recovery of possession and for mandatory injunction. The defendants have stated that they were not informed by their counsel and that they came to know about the exparte decree only at a later point of time, therefore there is a delay of 135 days in filing the application to set aside the exparte decree.

8. When the defendants have satisfactorily explained the reasons for the delay and in the interest of justice, the defendants should be given an opportunity to contest the suit on merits, the Trial Court has rightly allowed the application on payment of cost.

9. In view of the above, I do not find any error or irregularity in the orders passed by the Trial Court. The Civil Revision Petitions are devoid of merits and are liable to be dismissed. Accordingly, the Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : Yes/No

15.12.2015

Rj

To

The Additional District Munsif Court
Chidambaram.

M. DURAISWAMY,J.,

Rj

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