



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2015

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (NPD) Nos.117 and 118 of 2015

and

M.P. (MD) No.1 of 2015

Amsavalli

.. Petitioner/2nd Defendant
in both petitions

Vs.

1. Muniandi
2. Lakshmi
3. Selvi
4. Karuppuchamy

... Respondents/Plaintiffs
in both petitions

5. Nallammal
6. Naganathan
Sub Inspector,
Thiruppachethi Police Station,
Manamadurai Taluk,
Sivagangai District.

7. Ramanathan
8. Boominathan

... Respondents/Defendants
1,3 to 5 in both petitions

Prayer in C.R.P. (MD) No. 117 of 2015: Petition is filed under Article 227 of the Constitution of India to direct the lower Court to number the set aside petition filed in CF No.2084 of 2014 in O.S.No.157 of 2011 on the file of the learned Principal District Munsif Court, Manamadurai, dated 26.11.2014.

Prayer in C.R.P. (MD) No. 118 of 2015: Petition is filed under Article 227 of the Constitution of India to direct the lower Court to number the condone delay in CF No.2084 of 2014 in O.S.No.157 of 2011 on the file of the learned Principal District Munsif Court, Manamadurai, dated 26.11.2014.

For Petitioner
in both petitions : Mr.A.Rajkumar Sen

COMMON ORDER

The revision petitioner is the second defendant in the suit. According to the petitioner, the suit was decreed exparte on 09.09.2014 and therefore, two applications have been filed for condoning the delay in setting aside the exparte decree and the said applications were returned by the District Munsif, Manamadurai, as not maintainable, as the suit was disposed of after full trial. Aggrieved by the same, the above Civil Revision Petitions have been filed.



2. Heard the learned Counsel for the petitioner.

3. The second defendant/the petitioner herein was represented by her Counsel and appeared in the Court and also filed the written statement. She has also submitted herself to be examined as D.W.1. Thereafter, according to the petitioner, the case was posted on 07.08.2014 and she did not appear before the Court.

4. It is admitted in paragraph No.3 of the affidavit wherein it is stated that she did not take part in the proceedings between 07.08.2014 and 19.11.2014, as she was bedridden. Thereafter with a delay of 40 days, the applications have been filed. A copy of the judgment is filed along with the revision petitions and in the preamble of which it is mentioned that on 05.09.2014, the suit was taken up for arguments and an Advocate had represented on behalf of the second defendant. Thereafter, the judgment was pronounced on 09.09.2014. Therefore, the second defendant who had ample opportunities to present her case, had not been diligent in appearing before the Court and put forth her case. Having slept over the matter, she cannot be allowed to file the applications after the judgment was pronounced. If the second defendant/petitioner is so aggrieved, it is open to her to file a regular appeal before the appropriate Forum. Hence, the return made by the trial Judge does not suffer from any infirmity and the same is correct.

5. Accordingly, both the Civil Revision Petitions are dismissed. Consequently, the connected Miscellaneous Petition is also dismissed. No costs.

Sd/
Assistant Registrar

/True copy/

sub Assistant Registrar(c.s)

To

1. The Principal District Munsif, Manamadurai.

2. The Principal District Judge, Sivagangai.

+lcc to Mr. A.Raj Kumar Sen Advocate in SR.No. 4455

TS/16.02.2015/2P-4C

C.R.P. (NPD) Nos. 117 and 118 of 2015
and
M.P. (MD) No. 1 of 2015

29.01.2015