

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.12.2016**

CORAM:

THE HONOURABLE MR.**JUSTICE S.M.SUBRAMANIAM**

C.R.P.(P.D.) No.440 of 2014 and
M.P.No.1 of 2014

1. Sivasankara Padayachi
2. Karunakaran

...Petitioners

versus

K.V.Mani

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the Fair and Decreetal Order of the Additional District Munsif, Cuddalore, allowing I.A.No.333/2013 in O.S.No.662 of 2007 by order dated 11.10.2013.

For Petitioners : Mr.Alexraj

for M/s.R.Gururaj

For Respondent : Mr.I.Abrar Md. Abdullah

ORDER

The present revision petition is filed challenging the order passed in I.A.No.333/2013 in O.S.No.662/2007 dated 11.10.2013 by the

learned Principal District Munsif, Cuddalore.

2. The suit is for declaration of title and recovery of possession and the plaintiffs are the revision petitioners before this Court.

3. An ex-parte decree was passed against the 7th defendant on 06.04.2009. Against the said ex-parte decree, the respondent/7th defendant filed a petition in I.A.No.333/2013 and there is a delay of 1435 days in filing the petition under Order 9 Rule 13 CPC. The petitioners/plaintiffs filed a counter statement on the ground that the reasons set out in the affidavit filed by the respondent/7th defendant is not convincing and it is to be dismissed. The trial court considered the facts and circumstances, allowed the petition, subject to the condition that a cost of Rs.500/- to be paid to the respondent on or before 24.10.2013. The trial court considered the delay petition mainly on the ground that the 7th defendant was in continuous ailment and there was a death of his relative and he could not able to contact his Counsel.

4. In any event, no suit should be dismissed without effective adjudication and it is a suit for declaration and recovery of possession. Considering the nature of the suit, it is always desirable to provide

opportunity to the respective parties to file their pleadings and have effective adjudication. The suit cannot be dismissed merely on technical ground unless a motive is attributed to the parties. Hence, this Court is not inclined to consider the grounds of appeal filed by the revision petitioners and accordingly, the same is devoid of merits and the Civil Revision Petition is dismissed.

5. Considering the fact that the suit is of the year 2011, this Court is inclined to direct the trial court to take up the suit for disposal as early as possible and dispose of the same. No costs. Consequently, connected Miscellaneous Petition is closed.

08.12.2016

Index:Yes
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To

The Additional District Munsif, Cuddalore.

**S.M.SUBRAMANIAM, J.
tsi**

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