

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).Nos.1890 & 1891 of 2016
and C.M.P.Nos.9881 & 9882 of 2016

S.Dhandapani

... Petitioner in both C.R.P.s

Vs.

N.Shenbagavalli

... Respondent in C.R.P.1890/2016

1.Chandra @ Chandradhyayum

2.R.Anitha Rani

3.R.Preethi

... Respondents in C.R.P.1891/2016

Civil Revision Petitions filed under Article 227 of the Constitution of India against the order dated 06.04.2016 passed in E.A.Nos.660 & 661 of 2015 in E.P.Nos.132 of 2013 & 86 of 2014 on the file of the II Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.S.Sundar
(in both C.R.P.s)

COMMON ORDER

The revision petitioner, who is the Judgment Debtor in E.P.Nos.132 of 2013 & 86 of 2014 in O.S.No.70 of 1982 on the file of the II Additional Subordinate Judge, Coimbatore, has filed the above Civil Revision Petitions

challenging the orders passed in E.A.No.660 of 2015 in E.P.No.132 of 2013 and E.A.No.661 of 2015 in E.P.No.86 of 2014.

2.The Decree Holders filed the suit in O.S.No.70 of 1982 for partition, which was decreed by the trial Court. Thereafter, the Decree Holders filed final decree application and the trial Court also passed a final decree on 13.06.2006.

3.Pursuant to the final decree passed in the suit, the Decree Holders filed E.P.Nos.132 of 2013 & 86 of 2014. Since the Judgment Debtor remained absent before the Executing Court, he was set exparte and an exparte order was passed on 17.09.2013 and 03.09.2014.

4.Thereafter, the Judgment Debtor filed E.A.Nos.660 & 661 of 2013 under Order 21 Rule 106 of the Civil Procedure Code to set aside the exparte order passed by the Executing Court. In the affidavit filed in support of the petition, the Judgment Debtor has stated that he was set exparte on 17.09.2013 and 03.09.2014 and he came to know about the same only when the Advocate Commissioner inspected the property on 15.12.2015. Apart from saying that he came to know about the order passed in the Execution Petition only on 15.12.2015, the Judgment Debtor has not

given any acceptable reason for setting aside the exparte order.

5. Though the suit was filed in the year 1982 and a preliminary decree was passed on 07.04.1987 and a final decree was passed on 13.06.2006, the Judgment Debtor has now stated that he came to know about the order passed in the Execution Petitions only on 15.12.2015. The averment stated in the affidavit filed in support of the petition was disputed by the Decree Holders. The Executing Court, taking into consideration the case of both parties, rightly dismissed the applications finding that the Judgment Debtor has not given any sufficient cause for setting aside the exparte order passed in E.P.Nos.132 of 2013 & 86 of 2014.

6. In the absence of sufficient cause shown by the petitioner, the order passed by the Executing Court is just and proper. The Judgment Debtor having kept quiet for more than two years has filed the applications to set aside the exparte orders, which was rightly rejected by the Executing Court.

7. In these circumstances, I do not find any error or irregularity in the orders passed by the Executing 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, the connected miscellaneous petitions are closed.

Index : No
Internet : Yes
va

27.06.2016

To

The II Additional Subordinate Judge,
Coimbatore.

M.DURAIWAMY,J.
va

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27.06.2016