

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.07.2016

CORAM:

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.2020 of 2016 &
C.M.P.No.10534 of 2016

- 1.Penangan alias Vediappan
- 2.Murugan
- 3.Solairajan alias Vinayagam
- 4.Indirani
- 5.Lakshmi
- 6.Chinnapillai
- 7.Salaiammal
- 8.Mani
- 9.Sivan

(4th petitioner/4th defendant Sankar died
and his wife Chinna Pillai, the 6th petitioner
is already on record)

... Petitioners

v.

Vediappan

... Respondent

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the orders of the learned District Munsif of Krishnagiri dated 17.06.2016 in I.A.No.165 of 2013 in O.S.No.283 of 2005 and allow the above Civil Revision Petition.

For Petitioners : Mr.V.Nicholas

For Respondent : Mr.V.Selvam

O R D E R

Challenging the fair and final order passed in I.A.No.165 of 2013 in O.S.No.283 of 2005 on the file of District Munsif Court, Krishnagiri the defendants 1 to 3 and 5 to 10 have filed the above Civil Revision Petition.

2.The plaintiff filed the suit in O.S.No.283 of 2005 for declaration, permanent injunction and for compensation.

3. The defendants appeared before the Trial Court through an Advocate, however, in spite of repeated adjournments granted to the defendants, they failed to file their written statement.

4. Since the defendants did not file their written statement, they were called absent and an exparte decree was passed on 03.12.2007.

5. Thereafter, the defendants filed an application in I.A.No.165 of 2013 to condone the delay of 1797 days in filing the application to set aside the exparte decree.

6. In the affidavit filed in support of the application, the defendants have stated that their counsel did not inform them about the proceedings, hence, they were under the impression that the suit was pending.

7. Blaming their counsel, the defendants sought to condone the delay of 1797 days in filing the application to set aside the ex parte decree dated 03.12.2007. The defendants should be diligent in prosecuting the matter in a proper manner. The defendants cannot blame their counsel for the inordinate delay of 1797 days and they should have approached their counsel and ascertained the pendency of the matter.

8. Having not diligent in prosecuting the matter, the Trial Court has rightly declined to condone the inordinate delay of 1797 days.

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

Index : Yes/No

06.07.2016

Rj

To

The District Munsif Court
Krishnagiri

M.DURAISWAMY,J.

Rj

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