

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2016

CORAM

THE HONOURABLE **Mrs. JUSTICE. S.VIMALA**

Civil Revision Petition No.252 of 2016
and C.M.P.No.1197 of 2016

1. J.Ganessin
2. J.Saravanane
3. J.Mourougane

(Petitioners 2 and 3 are represented
by General Power of Attorney, J.Ganessin,
first petitioner)

... Petitioners / Plaintiffs

Vs.

1. Kothandam Pillai,
Rep. By his Power Agent,
the 2nd defendant
2. D.Velmurugan

... Respondents / Defendants

Prayer :- Civil Revision Petition (NPD) filed under Section 115 of the Code of Civil Procedure, 1908, against the order of notice, dated 03.07.2015, by the Principal District Munsif at Pondicherry, in I.A.No.1027 of 2015 in O.S.No.858 of 2013.

For Petitioner : Mr. J.Ganessin, Party-in-Person

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ORDER

The petitioner herein, as the first plaintiff, has filed a suit in O.S.No.858 of 2013, before the Principal District Munsif, Puducherry, seeking the relief of declaration and possession. The said suit was

decreed on 29.08.2013. An Execution Petition had been filed in E.P.No.7 of 2014 in O.S.No.858 of 2013. Thereafter, an application has been taken out, by the defendants / respondents, in I.A.No.1027 of 2015 in O.S.No.858 of 2013 to condone the delay of 492 days in filing the application to set-aside the exparte decree, dated 29.08.2013 passed in O.S.No.858 of 2013.

2. In this application to condone the delay, the Court below has issued notice. Aggrieved over the same, this Civil Revision Petition has been filed.

3. It is the grievance of the Revision Petitioner that despite innumerable time given by the Executing Court, the respondents did not file the counter and instead, they have taken out the application to set-aside the exparte decree along with the application to condone the delay.

4. The submission of the petitioner (party-in-person) is right, but not before this Court, but before the Executing Court. In other words, these objections should have been taken before the Court, which issued the notice and not before this Court. As against the order

issuing notice, the Revision Petition is not maintainable. However, this Court, exercising jurisdiction under Article 227 of the Constitution of India, has to take note of the delay complained of and should issue directions for speedy disposal of the case. Hence, this Revision Petition is liable to be dismissed, but with directions and it is dismissed accordingly.

5. In the light of the facts stated, the Court below is directed to dispose of the Application filed to condone the delay, within a period of one month from the date of receipt of a copy of this order. No costs. Consequently, the connected CMP is closed.

05.02.2016

Index : Yes / No

Web : Yes / No

srk

Note to office.: Issue order copy on 08.02.2016

S.VIMALA, J.,

srk

To

1. The Principal District Munsif, Puducherry
2. The Section Officer, V.R.Section,
Madras High Court, Chennai - 104

C.R.P. (NPD) No.252 of 2016
& C.M.P.No.1197 of 2016

05.02.2016