

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.722 of 2016

&

C.M.P.No.3727 of 2016

1.L.S.Nasuni
2.L.S.Dilshath Begum
3.Kahlid Ahamed
4.Minor Nausheen
5.L.S.Sumsath Begum
6.L.S.Naseer Ahamed
7.L.S.Guisatha Begum
Muni @ Manni Begum
8.L.S.Rahath
9.L.S.Nazir Ahamed
10.L.S.Basheer Ahamed

... Petitioners

vs.

1.L.S.Shafir Ahamed
2.Sathathumisa
Sabirunnisa (died)
3.L.S.Yeias Ahamed
4.Thara @ Tghagra
5.L.S.Bansumisa
6.L.S.Jagir Ahamed
7.L.S.Bajeelathunnisa
8.S.S.Umaruthin
9.P.Kumar
10.Z.Javid Ahamed
11.Z.Umme Salma
12.Z.Mehazabeen

13.Minor Z.Zabar Ahemed
 14. The Sub Registrar
 Joint – II
 Sub-Registrar Office
 Krishnagiri Town and Taluk

15.Irfan

16.Rizwan

17.J.Kader Sherif

18.N.Umar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal orders of the learned I Additional District Judge, Krishnagiri dated 15.12.2015 in I.A.No.72 of 2015 in O.S.No.21 of 2007.

For Petitioners : Mr.A.Dinesh

ORDER

The plaintiffs in the original suit are the petitioners in the present Civil Revision Petition. After the evidence of DW2 was over, they filed an application I.A.No.72 of 2015 for recalling DW2 for further examination. The Court below showed leniency and allowed the petition on condition that the petitioners/plaintiffs should pay a meagre amount of Rs.250/- as cost to the District Legal Services Authority on or before 14.12.2015. The leniency shown by the Court

was not utilized by the petitioners / plaintiffs by abstaining from making payment of the above said meagre amount awarded as costs and the same resulted in the dismissal of the petition on 15.12.2015.

2. After the dismissal of the petition alone, the petitioners / plaintiffs chose to make payment of the same to the District Legal Services Authority and filed an application under Section 148 of the Code of Civil Procedure for extension of time for payment of cost. The reason assigned by the petitioners is that the counsel was not able to contact the party and hence, he was not in a position to make payment of the said amount. Such a meagre amount could have been very well paid by the counsel to be reimbursed by the parties. The counsel ought not to have waited till the expiry of time and an order dismissing the application came to be passed on default having been committed.

3. The suit is of the year 2007. Even after 9 years, the petitioners were not prepared to get on with the trial and they have chosen to find the ways to prolong the case as long as possible. The same is the reason why the learned trial Judge chose to disallow the application for enlargement of time. Furthermore, without filing an application to set aside the order passed dismissing the interlocutory

application I.A.No.72 of 2015, application for extension of time cannot be entertained. The petitioners ought to have filed an application to set aside the order dated 15.12.2015 dismissing I.A.No.72 of 2015 along with the application for extension of time. The same can also be added as another reason for sustaining the order of the trial Court . Above all, the tenancy of the applicants to prolong the case by such ingenious methods should be checked with proper orders. This Court does not find any defect or infirmity in the order of the trial Court warranting interference by this Court in exercise of its power of superintendence under Article 227 of the Constitution of India. There is no merit in the revision and the same deserves dismissal.

In the result, the Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

16.03.2016

Index: Yes/No
Internet: yes/No
gpa

To

I Additional District Judge
Krishnagiri

P.R.SHIVAKUMAR.J.,
gpa

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