



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

WEB COPY

CRP (MD).No.1761 of 2015 and MP(MD).No.1 of 2015

1. N. Jeyalakshmi
2. N. Vijayalakshmi
3. N. Kaleeswari
4. N. Thilagavathy : Revision Petitioners/Plaintiffs
Vs.

Rathinasamy : Respondent/Defendant

Prayer: The Civil Revision Petition is filed under Section 115 of the CPC against the fair and decreetal order dated 08.03.2011 passed by the District Munsif Judge, Sivakasi, Virudhunagar District, in I.A.No.59/2011 in O.S.No.176/2006 with cost of Rs.300/- payable by the petitioners to the respondent on or before 14.03.2011.

For Petitioner : Ms. N. Thilagavathy

ORDER

The Civil Revision Petition is filed against the fair and decreetal order, dated 08.03.2011 passed by the learned District Munsif Judge, Sivakasi, Virudhunagar District, in I.A.No.59/2011 in O.S.No.176/2006 with cost of Rs.300/- payable by the petitioners to the respondent on or before 14.03.2011.

2. The revision petitioners are the plaintiffs. The respondent herein is the defendant in the suit.

3. The revision petitioners filed O.S.No.176 of 2006, claiming compensation against the respondent. The said suit was decreed ex parte. The respondent filed I.A.No.531 of 2006 to set aside the ex parte decree. The said application was ordered on condition that the respondent has to pay a sum of Rs.100/- to the petitioners. The cost was paid and ex parte decree was restored. The revision petitioners filed CMA.No.9 of 2008 against the order of setting aside the ex parte decree. The said CMA was dismissed on 29.07.2010. In the meanwhile, O.S.No.176 of 2006 was dismissed on 07.07.2010. The petitioners filed an application to restore the suit along with I.A.No.59 of 2011 to condone the delay of 130 days in filing petition and to restore the suit. The said application was ordered on condition that the petitioners pay a sum of Rs.300/- as cost to the respondent, on or before 14.03.2011. The



petitioners did not pay cost. Therefore, the application in I.A.No.59 of 2011 was dismissed. Against that, the revision petitioners filed Civil Miscellaneous Appeal that was rejected by the learned Principal District Judge, Srivilliputur, on the ground that the remedy available to the petitioners is only to file a Civil Revision Petition. The petitioners have filed CRP.No.1038 of 2012 and this Court by order dated 24.08.2012, allowed the same setting aside the order of learned Judge rejecting the Civil Miscellaneous Appeal and directed the learned District Judge, Virudhunagar at Srivilliputur, to return the Civil Miscellaneous Appeal to the petitioners with necessary endorsement and the petitioners may present the same along with other Civil Revision Petition. Thereafter, the revision petitioners filed Review Application No.24 of 2013 and the same has been dismissed by this Court on 11.06.2014. In the circumstances, the petitioners have filed the present Civil Revision Petition, challenging the order passed in I.A.No.59 of 2011 ordering application to condone the delay in filing an application to restore the suit on payment of cost of Rs.300/- on or before 14.03.2011.

4. The learned counsel for the petitioners contended that the opportunity should have been given to the petitioners and the suit may be decided on merits. She has raised various grounds in Civil Revision Petition on hearing of merits and various allegations against the counsel who appearing for the respondent.

5. I have heard the learned counsel appearing for the petitioners and perused the materials on record.

6. From the materials available on record it is seen that the civil revision petition is filed against the order dated 08.03.2011 ordering cost of Rs.300/- as a condition to condone the delay application to restore the suit. In such circumstances, the learned Judge considered all the materials on record in proper perspective and has given valid and cogent reasons. Further the learned Judge has exercised his power conferred on him properly and there is no irregularity or illegality warranting interference by this Court.

7. In the result, the Civil revision petition is dismissed confirming the impugned order passed in I.A.No.59 of 2011 in O.S.No.176 of 2006, dated 08.03.2011, by the learned District Munsif Judge, Sivakasi, Virudhunagar District. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar



3

To

The learned District Munsif Judge,
Sivakasi, Virudhunagar District

trp

AA/NGM-SS/23.03.2016/3p-2c

CRP (MD) .No.1761 of 2015
and MP (MD) .No.1 of 2015
29.02.2016