



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.02.2016

CORAM

WEB COPY

THE HONOURABLE Ms.JUSTICE V.M.VELUMANI

C.R.P. (PD) (MD) No.240 of 2016

P.Suyambu Anantha Sundar Rajan ... Petitioner

Vs.

1. Sadana Gnana Selvi
2. Chithra Devi
3. Joyal
4. Sigamani
5. Pavoul Raj
6. Lavanya
7. Manokaran
8. Kalaiselvi
9. Sathiya Seela

... Respondents

Prayer: The Civil Revision Petition is filed under Section 115 of C.P.C., to direct the trial Court to number the petition in I.A.SR.No.9500 of 2015 in O.S.No.201 of 2015 on the file of the Principal District Munsif Court, Valliyoor.

For Petitioner : Mr.H.Arumugam

O R D E R

The Civil Revision Petition is filed against the order dated 08.12.2015 returning the application filed by the petitioner to set aside the ex-parte order dated 31.08.2015 in O.S.No.201 of 2015.

2. The petitioner is the 7th defendant in the suit. The respondents 1 to 9 filed a suit in O.S.No.201 of 2015 for partition and separate possession of 1/3rd share in the suit properties in Survey No.479(1C2) 0.20 hectare, in Survey No.479 (1D) 0.14 hectare, in Survey No.480(5) 0.28 hectare and in Survey No.484(4) 0.47 hectare situated in Koodankulam Village, Tirunelveli District. On receipt of the summons in the suit, he appeared before the Court on 20.08.2015 on the date of hearing in person. On that day, the case was not taken up as Judge was on leave. According to the petitioner, next date of hearing was not fixed. On the next day, he did not engage any advocate. Subsequently, on 23.09.2015, the petitioner engaged an advocate and came to know that already the petitioner was set ex-parte on 31.08.2015.



Immediately, on 29.09.2015, he filed an application to set aside the ex-parte order dated 31.08.2015. The said application was returned on the ground that "the suit was already disposed of before the Lok Adalat on 12.09.2015. Hence, returned."

3. The petitioner represented the same stating that no notice was issued to appear before the Lok Adalat and therefore, the petitioner did not appear before the Lok Adalat. The suit property absolutely belongs to the petitioner/7th defendant. The settlement arrived at in collusion between other parties is not binding on the petitioner. The matter was posted before the Court. The learned Judge, after hearing the counsel for the petitioner, returned the petition filed by the petitioner on 08.12.2015 on the ground that after award of Lok Adalat, Court has no jurisdiction to entertain the petition when no suit is pending. Against the said return, the present Civil Revision Petition is filed.

4. The learned counsel for the petitioner submitted that no decree was passed based on the award of the Lok Adalat and the said settlement is not binding on the petitioner as he was not party to the said settlement and that he filed a petition to set aside the ex-parte order within 29 days from the date of ex-parte order. Therefore, he prayed for allowing the Civil Revision Petition.

5. Heard the learned counsel for the petitioner.

6. Considering the facts and circumstances of the case, no notice is necessary to the respondents.

7. From the records it is seen that the petitioner was not party to the settlement arrived at in the Lok Adalat and no decree was passed based on the award passed by the Lok Adalat and the petitioner filed a petition to set aside the ex-parte order within the time limit prescribed. In the circumstances, the contentions of the learned counsel for the petitioner are accepted.

8. In the result, the Civil Revision Petition is allowed and the learned Principal District Munsif, Valliyoor is directed to take the application on file and decide the same on merits.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar



akv
To

The Principal District Munsif Court,
Valliyoor.

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+1CC to Mr.H.Arumugam Advocate Sr.No.7547

Copy To : The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court, Madurai.

CSL/SKS/RR/1.4.16-3p-4C

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