

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 17.03.2017

CORAM

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CIVIL REVISION PETITION No.1013 of 2017
and
C.M.P.No.4931 of 2017

S.K.Vignaraj ... Petitioner / 3rd Defendant
3rd Respondent/3rd Respondent

vs

1.S.Moorthy 1st Respondent/Plaintiff/Petitioner/Petitioner
2.R.Rajendran 2nd Respondent/2nd defendant/2nd Respondent/
2nd Respondents

The Civil Revision Petition filed under Article 227 of the Constitution of India to strike off the application in I.A.No.758 of 2014 in I.A.No.130 of 2015 in O.S.No.155 of 1998 pending on the file of the District Munsif, Gobichettipalayam.

For Petitioner ... Mr.P.Valliappan

For Respondents No Appearance

O R D E R

The Civil Revision Petition has been filed to strike off the application in I.A.No.758 of 2016 in I.A.No.130 of 2014 in O.S.No.155 of 1998 pending on the file of the District Munsif, Gobichettipalayam.

2.The brief facts of the case are as follows:

The first respondent herein filed a suit in O.S.No.155 of 1998 on the file of the District Munsif, Gobichettipalayam for declaration and to set aside the sale deed executed by the father of the plaintiff. The said suit was dismissed for default on 10.10.2001. Subsequently, the first respondent herein filed an application in I.A.No.1365 of 2001 in O.S.No.155 of 1998 to set aside the dismissal order dated 10.10.2001 and for restoration of the suit. The said application was allowed on 2.1.2002 on payment of cost of Rs.500/-. Again, the first respondent herein, filed an application in I.A.No.460 of 2004 to

restore the suit and the said application was allowed on 02.12.2004. Thereafter, again, the first respondent herein filed an application in O.S.No.155 of 1998 to set aside the dismissal order dated 07.04.2005, but the said application was not numbered. Thereafter, after a lapse of 3067 days, once again, the first respondent filed an application in I.A.No.130 of 2014 to condone the delay of 3067 days to file an application for restoration of the said suit, which was dismissed for default on 07.04.2005 and same was also dismissed for default on 04.04.2016. As against the said order, the first respondent again filed an application in I.A.No.758 of 2016 before the Court below to set aside the order dated 04.04.2016. Aggrieved by the application filed by the first respondent in I.A.No. 758 of 2016, the revision petitioner has come forward with the present civil revision petition.

3.The learned counsel for the revision petitioner submitted that the first respondent by raising various grounds filed various vexatious applications before the Court below to drag on the proceedings and the same is an abuse of process of law.

4.The learned counsel for the revision petitioner further submitted that earlier the first respondent herein filed I.A.No.1365 of 2001 to set aside the dismissal order dated 10.10.2001 and the same was allowed by the Court below. But, due to his slackness, the suit was again dismissed for default on 07.04.2005. Hence, the first respondent once again filed I.A.No.130 of 2016 to condone the delay of 3067 days for the same reason before the Court below and said application was also dismissed for default on 4.4.2016. As against the said order, the first respondent again filed I.A.No.758 2016. Hence, the learned counsel prayed to strike off the said application filed by the first respondent and to allow the present civil revision.

5. I have heard the learned counsel for the petitioner and also perused the materials available on record.

6. From the above facts, it is clearly seen that the first respondent has filed various applications before the Court below and the same were allowed. In the present I.A. filed by the first respondent before the Court below, notice has been ordered to the petitioner herein. At this stage, the petitioner filed the present CRP before this Court. This Court is not inclined to entertain the aforesaid civil revision petition, the same can be decided by the trial Court after providing opportunity to the parties.

7. In such circumstances, this Court, considering the facts and circumstances of the case and in the interest of justice, is inclined to issue the following directions to the Court below to

dispose of the application filed in I.A.No.758 of 2014 in I.A.No.130 of 2015 in O.S.No.155 of 1998:

"(i) The revision petitioner is permitted to raise all the grounds before the Court below in I.A.No.758 of 2016 by filing counter statement.

(ii) The revision petitioner is directed to file counter before the Court below in I.A.No.758 of 2016 within a period of one week from the date of receipt of a copy of this order.

(iii) On receipt of the counter, the learned District Munsif, Gobichettipalayam is directed to dispose of I.A.No.758 of 2016 as expeditiously as possible, preferably within a period of three weeks thereafter, on merits and in accordance with law."

8. With the above directions, the Civil Revision Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To
The District Munsif,
Gobichettipalayam.

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+1cc to Mr.P. Valliappan, Advocate, S.R.No.17116

md(23/03/2017)

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