

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.03.2017

CORAM

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

Civil Revision Petition (NPD) No.1081 of 2017

and

CMP.No.5181 of 2017

1. A.S.Sasikala

2. A.R.Subash

...Petitioners

..Vs..

M.Gopi

...Respondent

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C. against the fair and decretal order dated 24.01.2017 made in I.A.No.308 of 2016 in O.S.No.45 of 2013 on the file of the II Addl. District Court, Salem.

For Petitioners : Mr.R.Gopinath

For Respondent : No appearance

ORDER

This Civil Revision petition has been filed against the fair and decretal order dated 24.01.2017 made in I.A.No.308 of 2016 in O.S.No.45 of 2013 on the file of the II Addl. District Court, Salem.

2. Heard the learned counsel appearing for the petitioner.

3. According to the petitioners, the respondent herein filed a suit in O.S.No.45 of 2013 for declaration, recovery of vacant possession of the suit property and for permanent injunction and the said suit was decreed exparte on 01.08.2014. Therefore, the petitioners have filed the application in I.A.No.308 of 2016 in O.S.No.45 of 2013 in the aforesaid suit to condone the delay of 744 days in filing the petition to set aside the exparte decree passed against the petitioners. The said application was dismissed on 24.01.2017, by the trial Court stating that there is no bonafide on the part of the petitioners. Aggrieved over the same, the petitioners have filed the present Civil Revision Petition.

4. On perusal of records, it is seen that the petitioners have already filed an application in I.A.No.237 of 2014 in O.S.No.45 of 2013 to set aside the exparte decree dated 01.08.2014 and the said application was allowed on a condition to pay cost of Rs.1,000/-. Even though the case has been adjourned from time to time till 01.04.2015 for payment of cost, cost has not been paid by the petitioner. Therefore, the said application I.A.No.237 of 2014 in O.S.No.45 of 2013 was dismissed on 01.04.2015. Therefore, the trial Court has dismissed the said application in I.A.No.308 of 2016, stating that there is no bonafide on the part of the petitioner.

5. In view of the above facts and circumstances of the case, I am not inclined to entertain this petition. At this stage, the learned counsel appearing for the petitioners submitted that liberty may be given to the petitioner to file an appropriate application before the trial Court, seeking extension of time, for payment of the cost.

6. This Civil Revision Petition is dismissed. However, it is open for the petitioners to approach the Court below for filing an application seeking extension of time, for payment of cost, if permissible under law. No Costs. Consequently, connected miscellaneous petition is closed.

22.03.2017

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Index : Yes / No

Internet : Yes / No

To,

The II Addl. District Court,

Salem.

D.KRISHNAKUMAR, J.,

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