

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.2328 of 2014
& M.P.No.1 of 2014

1.S.Kandasamy Gounder
2.Krishnaraj

.. Petitioners

Vs.

1.Pattis Pravin
2.Vidya Devi
3.Saminathan
4.Gandhimathi
5.Kumarasamy
6.Arukkutty Gounder
7.The Commissioner,
Hindu Religious and Charitable Endowments
Department,
Chennai-600 034.

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the order of the Principal District Munsif Court, Coimbatore, dated 09.08.2011 in I.A.No.91 of 2009 in I.A.No.1466 of 2005 in O.S.No.707 of 1979 inter-alia.

For Petitioners : Mr.P.Valliappan
For Respondents : Mr.V.Anandhamurthy
for R2, R5 and R5

ORDER

This Civil Revision Petition has been filed against the Fair and Decreetal order of the Principal District Munsif Court, Coimbatore, dated 09.08.2011 in I.A.No.91 of 2009 in I.A.No.1466 of 2005 in O.S.No.707 of 1979 inter-alia.

2. The petitioners are the defendants 2 and 3 in O.S.No.707 of 1979. One Lakshmi Ammal filed suit for partition. A preliminary decree was passed. The said Lakshmi Ammal filed I.A.No.1466 of 2005 for passing of final decree and for appointment of an Advocate Commissioner to measure the suit property and divide the suit property and allot 1/3rd share to her. Pending application for final decree, she died. The respondents 2 to 5 filed the present application in I.A.No.91 of 2009 to condone the delay of 429 days in filing the application to bring them on record as legal-representative of the deceased Lakshmi Ammal.

3. The petitioners filed a counter affidavit and opposed the said contention on the ground that the respondents 2 to 5 have not given any valid reason for filing this application.

4. The learned Judge, considering the averments made in the affidavit, counter affidavit and the materials available on record, allowed the application in order to decide the issue on merits and the learned Judge directed the respondents 2 to 5 to pay the cost on the petitioner and others.

5. Against the order, dated 09.08.2011 made in I.A.No.91 of 2009, the present civil revision petition is filed by the petitioners/defendants 2 and 3.

6. Heard the learned counsel for the petitioner and perused the materials available on record.

7. The grievance of the petitioner is that the learned Judge erroneously allowed the application, even after given a finding that the respondents 2 to 5 have not given any reason for filing the application to condone the delay. From the records, it is seen that a preliminary decree was passed on 09.03.1982 and I.A.No.1466 of 2005 filed for final decree for dividing the property and to allot share to the plaintiff / Lakshmi Ammal is pending. In view of this,

the learned Judge has allowed the application in order to give an opportunity to the respondents 2 to 5 to put-forth their case on merits. The learned Judge has awarded costs to the petitioner and others. In view of the same, there is no illegality or irregularity in the order passed by the trial Court, dated 09.08.2011, warranting interference by this Court.

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

06.06.2017

Index : Yes/No

r n s

To

The Principal District Munsif Court,
Coimbatore. =

V.M.VELUMANI, J.

r n s

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