

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2017

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)Nos.1758 & 1759 of 2015

M.P.No.1 of 2015 in CRP (PD)No.1758 of 2015

V.R.Gajalakshmi (Deceased)

1.Sarojini

2.T.S.Usharani

... Petitioners in both CRPs

v.

Lalithakumari (Deceased)

1.Diwakar

2.Sub Registrar

Office of the Sub Registrar

Vandavasi

3.Varalakshmi

... Respondents in both CRPs

Civil Revision Petitions filed under Article 227 of the Constitution of India, against the orders and decree dated 27.02.2015 made in

I.A.Nos.348 of 2014 & 350 of 2014 respectively in O.S.No.155 of 2009 on the file of Principal District Munsif cum Judicial Magistrate Court, Vandavasi.

For Petitioner : Mr.R.Thirugnanam

For Respondents : Mr.P.Sivamani - for R1
No appearance - for R2 & R3

COMMON ORDER

Challenging the fair and final orders passed in I.A.Nos.348 of 2014 & 350 of 2014 in O.S.No.155 of 2009, on the file of Principal District Munsif cum Judicial Magistrate Court, Vandavasi, the 2nd and 3rd plaintiffs have filed the above Civil Revision Petitions.

2. The plaintiffs filed the suit in O.S.No. 155 of 2009 for partition and for other reliefs.

3. During the pendency of the suit, the first defendant has died and

the plaintiffs took out an application in I.A.No.348 of 2014 to condone the delay of 774 days in filing the application to set aside the abatement caused due to the death of the first defendant. The plaintiffs also filed an application in I.A.No.350 of 2014 to bring on record the fourth respondent as the legal representative of the deceased first respondent.

4. In the affidavit filed in support of the applications, the petitioners-plaintiffs have stated the reasons for the delay, however, the defendants-respondents have not filed their counter.

5. The Trial Court, taking into consideration the averments stated in the affidavit filed in support of the application in I.A.No.348 of 2014, declined to condone the delay stating that the plaintiffs have not explained the reasons for the delay in a proper manner. The Trial Court, also dismissed the application in I.A.No.350 of 2014 stating that the plaintiffs have not given sufficient reasons to bring on record the fourth respondent as the legal representative of the deceased first respondent.

6. On a perusal of the affidavit filed in support of the applications, I am convinced that the plaintiffs have satisfactorily explained the reasons. In the interest of justice, the Trial Court should have condoned the delay and brought on record the legal representatives of the deceased first respondent in the suit.

7. In these circumstances, the fair and decreetal orders passed in I.A.Nos.348 of 2014 & 350 of 2014 in O.S.No.155 of 2009 are set aside. Consequently, I.A.Nos.348 of 2014 & 350 of 2014 are allowed. The Civil Revision Petitions are allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.03.2017

Index : Yes/No

Rj

To

The Principal District Munsif cum Judicial Magistrate Court
Vandavasi

M. DURAISWAMY,J.,

Rj

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