

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.12.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2071 of 2010
& M.P.No.1 of 2010

- 1.Raju Naidu alias R.M.Muniappan (Deceased)
- 2.Yesodha
- 3.Prabhu
- 4.Anitha

.. Petitioners

(petitioners 2 to 4 brought on record as L.R's of the deceased sole petitioner Raju Maidu @ R.M.Muniappan vide order of the Court dated 07.11.2017 made in C.M.P.Nos.15807 to 15809/2017)

Vs.

- 1.The District Forest Settlement Officer
(District Backward Classes Welfare Officer)
Dharmapuri and now at Krishnagiri.

- 2.The Forest Settlement Officer,
Krishnagiri.

- 3.The District Forest Officer,
Hosur Cattle Farm, Hosur.

- 4.The State of Tamil Nadu
rep. By the District Collector,
Dharmapuri.

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C to set aside the order of the learned District Munsif cum Judicial

Magistrate, Coimbatore dated 02.11.2004 in I.A.No.307 of 2004 in O.S.No.29 of 1996.

For Petitioners : Mr.V.Nicholas
for Mr.N.E.A.Dinesh

For R1 & R4 : Mr.T.Jayaramaraj,
Government Advocate (CS)

For R2 & R3 : Mr.E.Manoharan
Additional Government Pleader (F)

ORDER

This Civil Revision Petition is filed to set aside the order of the learned District Munsif cum Judicial Magistrate, Coimbatore dated 02.11.2004 in I.A.No.307 of 2004 in O.S.No.29 of 1996.

2.The first petitioner is the plaintiff and respondents are the defendants in O.S.No.29 of 1996 on the file of the District Munsif cum Judicial Magistrate, Coimbatore (formerly O.S.No.242 of 1991 on the file of the Sub Judge, Krishnagiri). The first petitioner filed the said suit against the respondents for declaration and permanent injunction. The respondents filed written statement on 30.08.1993 and are contesting the suit. The first petitioner did not appear and the suit was dismissed for default on 05.12.2002. The first petitioner filed I.A.No.307 of 2004 to condone the delay of 348 days

<http://www.judis.nic.in> in filing the Order IX Rule 9 petition to restore the suit. According to

the first petitioner, he was suffering from Jaundice and was taking ayurvedic treatment. In the circumstances, he could not concentrate the case.

3.The learned Judge, considering the fact that first petitioner has not produced any documents to prove his contention and earlier the suit was dismissed for default on two occasions, dismissed the application.

4.Against the said order of dismissal dated 02.11.2004, made in I.A.No.307 of 2004 in O.S.No.29 of 1996, the first petitioner has come out with the present Civil Revision Petition. Pending Civil Revision Petition, the sole petitioner died. The petitioners 2 to 4 are brought on record as legal heirs of the deceased sole petitioner vide order of the Court dated 07.11.2017, made in C.M.P.Nos.15807 to 15809 of 2017 in C.R.P.(NPD)No.2071 of 2010.

5.Heard the learned counsel for the petitioners, learned Government Advocate (CS) for respondents 1 and 4 and learned Additional Government Pleader (F) for respondents 2 and 3 and perused the materials available on record.

6.From the materials on record and the order of the learned

Judge, it is seen that the suit was filed on 02.12.1991. The first petitioner was not diligent enough to conduct the suit and earlier, on two occasions, the suit was dismissed for default and on his application, the same was restored to file. Even after restoration, petitioner did not pursue the suit and the suit was dismissed for default for third time on 05.12.2002. According to the first petitioner, he was suffering from Jaundice and was taking ayurvedic treatment. The learned Judge has dismissed the application on the ground that the first petitioner has not filed any documents to substantiate his contentions. In the circumstances, there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 02.11.2004, made in I.A.No.307 of 2004 in O.S.No.29 of 1996.

7.In the result, this Civil Revision Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

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Internet: Yes/No

Index: Yes/No

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- 4.The District Collector,
State of Tamil Nadu
Dharmapuri.
- 5.The District Munsif and Judicial Magistrate,
Coimbatore



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V.M.VELUMANI, J.

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