

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2017

CORAM:

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

C.R.P.(NPD).No.4322 of 2013

1.Chandra
2.Poongodi

... Petitioners

vs.

1.Sevathal@Perumakkal
2.P.Subramani
3.P.Arumugam
4.Alangarammal

... Respondents

This Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 12.08.2013 passed by the learned Principal Sub Judge, Krishnagiri in I.A. No.632 of 2012 in O.S.No.95 of 2012.

For Petitioners : Mr.M.Sathiavel

For Respondents : M/s.T.Sundaravadaran

ORDER

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The respondents herein before this court are the plaintiffs in O.S.No.95 of 2012 on the file of the Principal Sub Court, Krishnagiri, seeking for permanent injunction.

2. An exparte decree was passed against the petitioners/defendants 28.06.2012. Challenging the same, the petitioners/defendants filed I.A.No.632 of 2012 and the trial Court was dismissed the said I.A. Against which, the petitioners have preferred the present civil revision petition.

3. The learned counsel appearing for the petitioners would contend that the exparte decree was passed on 28.06.2012 and the petitioners/defendants filed a petition to set aside the exparte order, after a lapse of 84 days and therefore, the trial Court pronounced a non speaking order without setting out any reasons for dismissal and the subject matter of the suit which is really a dispute over the properties owned by joint family members. He would further submit that the petitioners were co-owners of the suit schedule properties and consequently the Court below has erred in denying the opportunity of the petitioners to raise the rival claims in the main suit. Hence, prays for allowing this civil revision petition.

4. The learned counsel appearing for the respondents opposed the revision petition by stating that the trial Court has considered the age factor of the first respondent/defendant, the first respondent was aged about 75 years at that point of time.

5. I heard Mr.M.Sathiavel, learned counsel appearing for the petitioners and M/s.T.Sundaravadaran, learned counsel appearing for the respondents and perused the materials available on record.

6. The trial Court has passed one line order in I.A.No.632 of 2006 which reads as follows:

"Petition be condone the delay of 84 days is filing the petition to set aside the exparte decree passed on 28.06.2012.

Orders pronounced. Petition is dismissed. No costs."

7. In view of the discussion made above and considering the facts and circumstances of this case, this Court is of the view that it is a fit case for remanding back to the matter to the concerned Court for fresh consideration and disposal and the order of the trial Court is liable to be set aside and the same is hereby set aside.

8. In the result, this civil revision petition is allowed by setting aside the order passed by the learned Principal Sub Judge, Krishnagiri in I.A.No.632 of

2006 in O.S.No.95 of 2012 dated 12.08.2013. The trial Court is hereby directed

M.V.MURALIDARAN,J

kkd

to dispose of the case in I.A.No.632 of 2012 within a period of one month from the date of receipt of a copy of this order, after giving due notice to both parties and opportunity of the hearing and the trial Court is directed to report compliance to this Court within 5 days from the date of passing order in the I.A.No.632 of 2012 within the time limit fixed by this Court. No costs.

20.09.2017

Note: Issue order copy on 26.09.2017

Index: Yes/No

Internet: Yes

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To

The Principal Sub Judge,
Krishnagiri.

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