

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.4487 & 4488 of 2013
& C.M.P.Nos.1 of 2013 (2 Mps)

1.P.Krishnan

2.P.Anandan

... Petitioners in both CRPs

Vs.

1.R.Rajukumar

2.Vishal R. Prasad

3.Viisah R. Suresh

... Respondents in both CRPs

PRAYER IN CRP PD No.4487/2013 : Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree passed in I.A.No.577 of 2012 against I.A.No.761 of 2007 in O.S.No.416 of 2004 dated 10.12.2012 on the file of District Munsif Court, Tirupattur Vellore – District.

PRAYER IN CRP PD No.4487/2013 : Civil Revision Petition filed under Article 227 of the Constitution of India, against the judgment and decree passed in I.A.No.852 of 2012 in O.S.No.416 of 2004 dated 10.12.2012 on the file of District Munsif Court, Tirupattur Vellore – District.

For Petitioner : Mr.D.Balachandran
in both CRPs

COMMON ORDER

These Civil Revision Petitions have been filed against the judgment and decree passed in I.A.No.577 of 2012 against I.A.No.761 of 2007 in O.S.No.416 of 2004 and I.A.No.852 of 2012 in O.S.No.416 of 2004 dated 10.12.2012 on the file of District Munsif Court, Tirupattur Vellore – District.

2. The petitioners are the defendants 4 & 5 and the respondents are the plaintiffs. The respondents filed suit for partition against the petitioners. Both the petitioners received the suit summons and did not appear before the court. The first petitioner/4th defendant was set exparte on 16.04.2002. Though the second petitioner/5th defendant was represented through counsel, he did not file any written statement and hence he was set exparte on 28.03.2005. A preliminary decree was passed on 04.04.2007. The respondent filed I.A.No.761 of 2007 for passing of final decree. In that application also, the petitioners received notice and did not appear and subsequently, they were set exparte. A final decree was passed on 19.11.2007 & 20.12.2007 against the 5th & 4th respondents/petitioners herein respectively. The petitioners filed I.A.No.577 of 2012 to condone the delay of 78 days in filing

the petition to set aside the exparte preliminary decree and I.A.No.852 of 2012 to condone the delay of 1809 days in filing the petition to set aside the exparte preliminary decree.

3. According to the petitioners, the respondents/plaintiffs informed them that they would not proceed with the suit and therefore, they did not contest the suit. The respondents 1 to 3 denied such allegation. Before the learned Judge, no evidence was let in to substantiate the case that the respondents informed them that they would not proceed further and hence they did not contest the suit.

4. The learned Judge, considering the facts, receipt of summons by the petitioners and also notice in the final decree application and the fact that the petitioners failed to substantiate their case that the respondents informed them that they would not proceed further and considering the judgement of this Court, dismissed the application by giving cogent and valid reasons.

5. Against the judgment and decree passed in I.A.No.577 of 2012 against I.A.No.761 of 2007 in O.S.No.416 of 2004 and

I.A.No.852 of 2012 in O.S.No.416 of 2004 dated 10.12.2012, the petitioners have come up with the present civil revision petitions.

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

7. The petitioners have not given any acceptable and valid reason for condoning the delay. The petitioners also failed to substantiate the reason given by them to condone the delay.

8. A reading of the order dated 10.12.2012 would reveal that there is no irregularity or illegality in the impugned order passed by the Trial Judge warranting interference by this Court.

9. In the result, both these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

09.06.2017

Index : Yes
rgr

V.M.VELUMANI, J.
rgr

To

The District Munsif Court,
Tirupattur Vellore – District.

C.R.P.(PD)Nos.4487 & 4488 of 2013

09.06.2017

<http://www.judis.nic.in>