



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.02.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.213 of 2017
and C.M.P (MD) No.946 of 2017

1.B.Ramesh
2.B.Rajammal

... Petitioners/Respondents/Plaintiffs

Vs.

Uchimali Ammal

... Respondent/Petitioners/1st Defendant

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decreetal order passed in I.A.No.132 of 2016 in O.S.No.32 of 2014, dated 11.08.2016 on the file of the Fourth Additional District Court, Tirunelveli.

For Petitioners : Mr.H.Arumugam
For Respondent : Mr.S.Satheesh Kumar

ORDER

The petitioner has filed the above Civil Revision Petition against the fair and decreetal order passed in I.A.No.132 of 2016 in O.S.No.32 of 2014, dated 11.08.2016 on the file of the learned Fourth Additional District Judge, Tirunelveli.

2.The petitioners are the plaintiffs and the respondent is the first defendant in O.S.No.32 of 2014. The petitioners filed the suit for declaration, recovery of possession and for mandatory injunction directing the first defendant to hand over the title deeds relating to the suit property to the petitioners. The respondent, after receipt of summons, did not appear in the suit and contest the same. An exparte decree was passed on 14.11.2014. The petitioners filed a petition in E.P.No.10 of 2016 to execute the decree. On receipt of the notice in the E.P, the respondent filed an application in I.A.No.132 of 2016 to condone the delay of 541 days in filing the petition to set aside the exparte decree. The petitioners did not file any counter. The learned Judge allowed the application on the ground that the petitioner did not file any counter and the Court is satisfied with the reasons given by the respondent to condone the delay in filing the petition and allowed the application. Against the said order, the present Civil Revision petition is filed.

3.The learned counsel appearing for the petitioners submitted that the learned Judge has not give any reason for allowing the



application and not passed any speaking order.

4.The learned counsel appearing for the respondent submitted that the learned Judge has allowed the application only after being satisfied with the reasons given by the respondent to condone the delay. The learned counsel for the respondent further submitted that there is a settlement going on between the parties and the petition may be heard on merits.

5.Heard the learned counsel for the parties and perused the materials available on record.

6.A reading of the order of the learned Judge clearly shows that the learned Judge has not passed any speaking order. In the circumstances, the order of the learned Judge is set aside and the matter is remitted back to the learned Fourth Additional District Judge, Tirunelveli. The learned Judge is directed to consider the application afresh and pass orders on merits and in accordance with law, after giving opportunity to both the parties.

7.With the above observation, this Civil Revision Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

The Fourth Additional District Judge,
Tirunelveli.

+1 CC TO MR. H.ARUMUGAM,ADVOCATE, SR NO.5824

+1 CC TO MR. S.SATHEESH KUMAR,ADVOCATE, SR NO.5823

MAS/SV-MMS:27.02.2017:2P/4C

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