



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2017
(Reserved on 13.06.2017)

WEB COPY

CORAM :
THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

CRP(PD) (MD) No. 462 of 2013

and

M.P(MD) No. 1 of 2013 and CMP(MD) Nos. 1446 to 1448 of 2013 and
2604 and 2605 of 2017

M. Rajappa

... Petitioner

vs.

- 1) L. Anandavalli
- 2) M. Jothi
- 3) M. Thilagavathi
- 4) G. Gunasekaran
- 5) R. Kathiresan
- 6) C. Senthamil Selvi
- 7) S. Murugan
- 8) R. Chellakannu
- 9) K. Ravichandran
- 10) K. Muralikannan
- 11) T. Senthamaraiselvi
- 12) R. Shanthi
- 13) R. Renuga Devi

... Respondents

Petition filed under Article 227 of the Constitution of India, against the order passed in I.A.No.304 of 2011 in O.S.No.149 of 2007 on the file of the II Additional District and Sessions Judge, Thanjavur dated 29.01.2013.

For Petitioner : Mr. B. Jameel Arasu
For R2 & R3 : Mr. P. Sesubalan Raja

ORDER

This revision petition is directed against the dismissal of Section 5 application filed by the 1st defendant to condone the delay of 152 days in filing the petition to set aside the exparte decree.

2. The partition suit was contested by other defendants. The preliminary decree passed on 29.09.2010. After receipt of notice in final decree application, the revision petitioner has filed an application to set aside the preliminary decree with the delay of

152 days.

3.The Trial Court has dismissed the application since no medical record produced to substantiate the illness alleged to have been suffered by the revision petitioner. Though the revision petitioner has entered appearance through counsel on 29.11.2007, he has not filed written statement. Hence, he was set ex parte on 06.06.2008 and the Trial Court has proceeded further. Based on the evidence let in by the parties, preliminary decree has been passed on 29.09.2010.

4.The revision petitioner has come with the application to set aside the preliminary decree on 31.02.2011 with defects that too after the filing of final decree application. The Trial Court considering the plea and the conduct of the party has rightly held that no proper explanation provided by the revision petitioner to condone the delay. The explanation given by the petitioner is bereft of supporting document. It is claimed that the revision petition suffers from loss of memory power and taking native treatment. It is totally unbelievable without medical record that since 30.11.2007 petitioner suffers from brain nervous ailment. Therefore, this Court finds that the order of the Trial Court is not perverse. Hence, the revision petition deserves no consideration.

In the result, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

/True copy/

Sub Assistant Registrar

To
The II Additional District and Sessions Judge,
Thanjavur.

Copy to:
The Record Keeper,
VR Section,
Madurai Bench of Madras High Court,
Madurai.
+1cc to Mr.P.Sesubalan Raja, Advocate, SR.61050
+1cc to Mr.B.Jameel Arasu, Advocate, SR.61126

Pre-Delivery order made in
CRP(PD) (MD) No.462 of 2013
20.06.2017

NBI