

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(PD). No.1525 of 2018
and C.M.P.No.8121 of 2018

Moorthi

... Petitioner

Vs.

1.M.Govindharaj
2.Annamalai
3.Baskaran
4.Saravanan

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decretal Order passed in I.A.No.560 of 2017 in O.S.No.23 of 2016 on the file of Learned Sub-Ordinate Judge, Uthangarai dated 08.03.2018.

For Petitioner : No Appearance

ORDER

The relief sought for in this revision petition is to direct the Court of Subordinate Judge, Arni, Thiruvannamalai District to dispose of A.S.No.21 of 2012 on the file of the Court of Subordinate Judge, Arni, Thiruvannamalai District.

2. The revision petitioner filed a suit against the respondents in O.S.No.23 of 2016 on the file of the Subordinate Court, Uthangarai for specific performance and permanent Injunction.

3. During the pendency of the suit, the respondents have not appeared either through counsel or in persons and subsequently they have not filed any written statement. Since no one represented on behalf of the respondents before the trial Court, the trial court passed an exparte decree on 18.08.2016. Accordingly, the revision petitioner filed an Execution Petition to execute the Sale Deed in which notices were sent to the respondents. In pursuance to the said notice, the respondents have appeared and filed an application before the trial Court to set aside the exparte decree along with an application to condone the delay of 356 days in filing the said application in I.A.No.560 of 2017 in O.S.No.23 of 2016 under Section 5 of the Limitation Act, before the learned Subordinate Judge, Uthangarai.

4. After hearing both the parties and perused the materials, the learned Trial Judge, has given sufficient opportunity to the respondents/defendants and allowed the application on payment of Rs.500/-.

5. Aggrieved against the said order dated 08.03.2018, the revision petitioner is before this Court.

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

7. The learned counsel for the petitioner fairly admitted that the revision petitioner received the cost amount of Rs.500/-. Through accepting the cost and receiving the cost, no question of challenging the said order passed by the trial Court in I.A.No.560 of 2017. Once the petitioner accepted the cost and the respondent complied with the order passed by the trial Court then challenging the said order by way of this revision is not sustainable.

8. Therefore, this Court finds no merits in this revision petition. However, the learned counsel for the petitioner would submit that the respondents have already filed a written statement before the trial Court along with the petition to condone delay of 365 days which is under challenge.

P.VELMURUGAN, J.,

vum

9. Therefore, the trial Court is directed to frame the issues from the pleadings of either side and dispose of the case in accordance with law, within a period of four months from the date of receipt of a copy of this order.

10. With the above direction, the revision petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

11.06.2018

Index:Yes/No

Speaking order / Non speaking order

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To

The learned Sub-Ordinate Judge,
Uthangarai.

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