

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.(NPD).No.1647 of 2018

Jayachandran

... Petitioner

Vs.

1. Vijayalakshmi
2. Rani
3. Indira
4. Kumari
5. Shakkila

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order dated 31.01.2018 made in I.A.No.579 of 2011 in O.S.No.15 of 2004 on the file of Sub Court, Tiruvannamalai.

For Petitioner : Mr.P.Srinivasan

ORDER

The relief sought for in this revision is to set aside the fair and decretal order dated 31.01.2018 made in I.A.No.579 of 2011 in O.S.No.15 of 2004 on the file of Sub Court, Tiruvannamalai.

2. The respondents filed a suit in O.S.No.15 of 2004 on the file of the learned Subordinate Judge, Tiruvannamalai for partition against the revision petitioner. In the said suit exparte decree was passed on 14.03.2005.

3. The Revision petitioner filed an application to set aside exparte decree under Order IX Rule 13 with a petition under Section 5 of the Limitation Act, in I.A.No.579 of 2011 on the file of the learned Subordinate Judge, Tiruvannamalai. The revision petitioner filed an application to set aside the exparte decree, along with the petition to condone the delay of 2405 days in filing the petition to set aside the exparte decree passed in the original suit on 14.03.2005. After giving an opportunity to both sides, the Trial Court dismissed the application.

4. Aggrieved against the order dated 31.01.2018, the revision petitioner/2nd defendant is before this Court.

5. The learned counsel for the revision petitioner would submit that the respondents filed the suit for partition and the mother is looking after all the properties, later on, the mother colluded with her daughters. A negotiation

between the family was initiated for an amicable settlement. Since, the other shares are not cooperating for settlement talks and no compromise was arrived between the petitioner and his family members. The revision petitioner left with no other option except to file the revision petition.

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

7. It is seen that the trial Court has passed a preliminary decree on 14.03.2005 itself. Only after serving the final decree notice the petitioner come forward with the Interlocutory application in I.A.No.579 of 2011 to condone the delay of 2405 days in filing application to set aside the exparte decree. In that application, PW1 was examined and not marked any documents on the side of the revision petitioner. The reason stated in the application for condoning the delay of 2405 days is not sufficient. Since, the trial Court has not satisfied with the reasons, dismissed the application in I.A.No.579 of 2011.

8. On a perusal of his records and also the affidavit filed before the trial Court and order passed by the trial Court , this Court does not find any reason

P.VELMURUGAN, J.,

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to take a different view. There is no illegality or irregularity in the order passed by the trial Court and finds no merits in the revision petition.

9. In the result, this Civil Revision Petition is dismissed. No costs.

12.06.2018

Index:Yes/No
Speaking order / Non speaking order
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To
The Additional Subordinate Judge,
Tiruvannamalai District.

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