

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2018

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD).No.1997 of 2018

1.R.Duraivelu

2.V.Manoharan

3.D.Datchanamurthy

4.A.P.Sriramulu Naidu

... Petitioners

Versus

N.Haridass @ Hariappan (Deceased)

1.N.Panchatcharam

2.N.Ekambaram

3.S.Munusamy

4.Devi

5.A.Kabali

6.A.Velaventhana

7.A.Sasikumar

8.Lakshmi

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the order and decretal order dated 11.04.2018, made in I.A.No.320 of 2018 in O.S.No.194 of 2015 on the file of the learned District Munsif, Thiruvottiur, Chennai District, consequently condone the delay of 60 days in filing the set aside petition and direct the trial Court to consider the set aside petition.

For Petitioners : Mr.K.Balu

For Respondents : Mr.V.Manisekaran

ORDER

As against the Judgment dated 15.11.2017 made in O.S.No.194 of 2015 before the learned District Munsif, Thiruvottiyur, Chennai District, on 23.07.2018, the defendants are petitioners herein. Mr.V.Manisekaran, learned counsel has filed a vakalat on behalf of the respondents.

2. The present Civil revision petition is filed as against the order of dismissal dated 11.04.2018 passed in I.A.No.320 of 2018 in O.S.No.194 of 2015 on the file of the learned District Munsif, Thiruvottiyur, Chennai District.

3. The respondents herein have filed the above said suit in O.S.No.194 of 2015, for declaration that the sale deed executed by the second defendant to the third defendant in favour of the first defendant and consequently, the agreement of sale deed entered into between the first defendant in favour of the fourth defendant is null and void.

4. The revision petitioners herein, who were the defendants, have defended the suit in O.S.No.194 of 2015 by filing a written statement only on 17.04.2018. The order of dismissal of the Interlocutory application shows that the petitioners were set exparte on 12.06.2017 itself for non-filing of the written statement and the exparte evidence was recorded on 31.07.2017. The learned District Munsif, Thiruvottiyur passed an exparte decree on 15.11.2017.

5. It appears that the revision petitioners herein, who were the defendants in the suit have moved an Interlocutory application in I.A.No.320 of 2018 on 14.02.2018 to set aside the exparte decree along with a petition, under Section 5 of the Limitation Act to condone the delay of 60 days, before the trial Court. After hearing both sides, it appears that the trial Court passed an order of dismissal on the ground that even after more than 2^{1/2} years, the petitioners have not filed any written statement and accordingly the trial Court dismissed the Interlocutory application in I.A.No.320 of 2018.

6. The learned counsel for the petitioners herein contended that immediately after passing of the Judgment in O.S.No.194 of 2015, dated 15.11.2017, he has sent a written statement to the office, but the same was returned on the ground that the main case itself was disposed of.

7. Taking into consideration that the written statement has been subsequently filed on 17.04.2018 and in order to give an opportunity to the petitioners / defendants to defend the case. I am inclined to allow the civil revision petition on certain terms.

RMT.TEEKAA RAMAN,J.,

klt

8. Accordingly, the civil revision petition is allowed on condition of payment of Rs.1000/- to the learned counsel for the respondents herein on or before 03.10.2018 and on such payment, the Interlocutory application in I.A.No.320 of 2018, shall stand allowed and the exparte decree dated 15.11.2017 in O.S.No.194 of 2015 shall stand set aside and the suit is restored to file. The trial Court is directed to accept the written statement filed by the defendants on record and frame the issues and list the case within a period of two weeks from the date of receipt of a copy of this order and dispose the suit within a period of twelve weeks thereafter in accordance with law. Both the parties are directed to co-operate with the trial Court for early disposal of the suit.

26.09.2018

klt

To

The District Munsif Judge,
Thiruvottiyur, Chennai.

C.R.P.(NPD).No.1997 of 2018