

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)Nos.710 and 711 of 2014 and
M.P.No.1 of 2014

M.Selvam

.. Petitioner in C.R.P.No.710 of 2014

K.Murugesan

.. Petitioner in C.R.P.No.711 of 2014

Vs.

Indirani

.. Respondent
in both the CRPs.

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India, against the fair and decretal order dated 30.08.2013 made in I.A.Nos.330 and 332 of 2013 in O.S.No.440 of 2007 on the file of the Additional District Munsif Court, Tiruchengode.

In both CRPs.

For Petitioners : Mr.R.Vinoth Raja for
Mr.N.Manokaran

For Respondent : Ms.Zeenath Begum

COMMON ORDER

The Civil Revision Petitions are filed against the fair and decretal order dated 30.08.2013 made in I.A.Nos.330 and 332 of 2013 in O.S.No.440 of 2007 on the file of the Additional District Munsif Court, Tiruchengode.

2. In both the Civil Revision Petitions, issues are one and the same and hence, they are disposed of by this common order.

3. The petitioner in C.R.P.No.710 of 2014 is the second defendant, petitioner in C.R.P.No.711 of 2014 is the first defendant and respondent in both the Civil Revision Petitions is the plaintiff in O.S.No.440 of 2007 on the file of the Additional District Munsif Court, Tiruchengode. The respondent filed the said suit for partition against the petitioners and four others. The petitioners entered appearance through their advocate on 06.03.2008. They took time on three occasions, but did not file written statement. They were set exparte and exparte decree was passed on 18.08.2008. The respondent filed I.A.No.790 of 2012 for passing of final decree. The

petitioners filed the present two applications I.A.Nos.330 and 332 of 2013 to condone the delay of 1630 days in filing the applications to set aside the exparte decree.

4. According to the petitioners, their earlier counsel did not inform about the proceedings and about the exparte decree. Only when the petitioners received notice in the final decree application in I.A.No.790 of 2012, they engaged the present advocate and found that exparte decree was passed against them and filed the present applications. The petitioner in C.R.P.No.711 of 2014 is an aged person and he and his wife are looked after by his son, who is the petitioner in C.R.P.No.710 of 2014. Due to the reason stated above, the petitioners could not file the applications in time.

5. The respondent filed separate counter affidavits in both the applications and denied all the averments made in the applications and submitted that the petitioners are blaming their earlier counsel and they were aware of the exparte decree five years earlier and reason given by the petitioners is not sufficient reason to condone the huge delay of 1630 days.

6. The learned Judge considering the averments made in the affidavit, counter affidavit and judgment relied on by the counsel for the parties, dismissed both the applications.

7. Against the said order of dismissal dated 30.08.2013 made in I.A.Nos.330 and 332 of 2013 in O.S.No.440 of 2007, the present two Civil Revision Petitions are filed by the petitioners.

8. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

9. From the materials available on record, it is seen that the petitioners on receipt of suit summons, entered appearance through their advocate on 06.03.2008 and exparte decree was passed against them only on 18.08.2008. They have failed to file the written statement. They filed the present applications only in the year 2013 with the delay of 1630 days in filing applications to set aside the exparte decree.

10. According to the petitioners, their previous counsel did not inform about the proceedings. Blaming earlier counsel for the delay

is to be deprecated. Having engaged an advocate, it is the duty of the petitioners to contact their advocate to find out the stage of the suit. The petitioners are not diligent enough to prosecute the case properly. The learned Judge has given valid reason for dismissing both the applications. I hold that there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 30.08.2013.

11. In the result, both the Civil Revision Petitions are dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

20.02.2018

Index:Yes/No

kj

To

The Additional District Munsif
Tiruchengode.

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V.M.VELUMANI,J.

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