

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.12.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.S.RAMESH

CRP(NPD)No.3372 of 2018
and CMP No.19095 of 2018

M.Karunakaran

... Petitioner

Vs.

1.Kuppammal
2.Chandrasekaran
3.M.Jagadeesan
4.C.Varalakshmi
5.V.Kalavalli

... Respondents

Prayer :- Civil Revision Petition has been filed under Article 227 of Constitution of India against the Fair and Decreetal order in I.A.No.529 of 2015 in I.A.No.309 of 2013 in O.S.No.535 of 2009 on the file of the Sub-Court, Tambaram, dated 06.01.2018.

For Petitioner : Mr.S.Vijayakumar

For Respondents : Mr.R.Sugumaran for R1 to R5

ORDER

The reasons assigned by the petitioner before the Trial Court for the delay of 63 days in filing the application to set aside the ex-parte final decree is that the petitioner herein was not served with the notice,

a decree was passed. As such, the submission is opposed by the learned counsel for the respondent that the notice was served on the petitioner herein.

2.The learned counsel for the petitioner also submits that he has not questioned the share of each of the parties, but only against the allotted area of his share. In view of the limited grievance of the petitioner herein, this Court is of the view that a lenient view can be taken and the petitioner can be given opportunity.

3.The learned counsel for the respondent submits that since the petitioner had belatedly approached this Court seeking to condone the delay, they had already spent a sum of Rs.13,200/- towards purchasing the stamp paper for the Sale Deed and is also constrained to defend the present Civil Revision Petition, which has caused monetary loss to the respondent.

4.In my view, by imposing an exemplary cost on the petitioner herein, the ends of justice would be met.

5.In the light of the above observations, the fair and decretal order made in I.A.No.529/2015 in IA.No.309/2013 in OS.No.535/2009 is set aside, on condition that the petitioner herein shall pay a sum of Rs.20,000/- to the respondent

herein, within a period of two weeks from the date of receipt of a copy of this order. Consequently, the delay of 63 days in filing the application to set aside the ex-parte final decree dated 03.03.2015 is condoned.

6. Since the Advocate Commissioner has already filed his report, the executing Court shall endeavour to complete the final decree proceedings within a period of 30 days, by commencing the proceedings from the stage, after filing of the Advocate Commissioner's report. No costs. Consequently, the miscellaneous petition is closed.

20.12.2018

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Note: Issue order copy on 02.01.2019

Internet: Yes/No

Index: Yes/No

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To

The Sub-Court, Tambaram.



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M.S.RAMESH, J.

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