

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 17.12.2018
CORAM
THE HONOURABLE MR.JUSTICE M.S. RAMESH
C.R.P. No.4120 of 2018
and
C.M.P.No.22706 of 2018

K.V.Lakshmipathy (Died)

1. K. Meera

2. Jayanthi

K.V.Balaji (Died)

3. K.V.Saroja

4. Savithri

5. Ethiraj

... Petitioners/ Petitioners

Versus

J. Senthamizh Selvi

... Respondent/ Respondent

Civil Revision Petition filed under under Article 227 of the Constitution of India, praying to set aside the Petition and Order dated 16.08.2018 in E.A.No.67 of 2018 in E.A.No.19 of 2012 in E.P.No.7 of 2011 in M.C.C.O.S.No.6871 of 1990, on the file of the learned District Munsif Court, Thiruvallur and consequently, allow the Civil Revision Petition.

For Petitioners :

Mr.V.Ramana Reddy

O R D E R

The Civil Revision Petition is filed by the petitioners seeking to set aside the order dated 16.08.2018 passed in E.A.No.67 of 2018 in E.A.No.19 of 2012 in E.P.No.7 of 2011 in M.C.C.O.S.No.6871 of 1990, before the learned District Munsif Court, Thiruvallur.

2. Heard the learned counsel on either side and perused the materials available on record.

3. On a perusal of the materials available on record and the impugned order of the Court below, I do not find any reason to interfere with the rejection of the petitioners' application seeking for restoration of his earlier application filed under Section 47 of C.P.C, for these reasons.

4. The suit came to be decreed in the year 1992. When the petitioner had filed an application in E.A.No.18 of 2016 for restoration of the E.A.No.19 of 2012, the same was allowed by the Execution Court by an order dated 12.04.2017, thereby giving an opportunity to put forth

their objections. Subsequently, the application in E.A.No.19 of 2012 also came to be dismissed on 12.06.2018 for the second time. The present application in E.A.No.67 of 2018 has been filed to restore the application E.A.No.19 of 2012, which is dismissed for default. The Execution Court, while recording the findings that the petitioner had assigned the same reasons, which they had assigned in the earlier application, refused to restore the application. As such, it was the view of the Execution Court that one opportunity was already given to the petitioners herein and that the second application by citing the same reasoning of his earlier application was not proper.

4.Considering the above facts, I do not find any reason to interfere with such well considered finding rendered by the Court below. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

rli/klt

To

The District Munsif Court,
Thiruvallur

+1cc to Mr.V.Ramana Reddy , Advocate SR.No. 87271

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A.SK(28/01/2019)

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