



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.02.2018

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

C.R.P. (PD) (MD) Nos.382 and 383 of 2018
and
CMP (MD) No.1706 of 2018

C.R.P. (PD) (MD) Nos.382 and 383 of 2018

Ganesan .. Petitioner/Petitioner/2nd Respondent/
2nd Defendant

Vs.

1.Muthammal .. 1st Respondent/1st Respondent/Petitioner/
Plaintiff

2.Madasamy,
S/o.Aathi
3.Arunachalavadivu
4.Rajammal
5.Gunaseelan
6.Veluchamy
7.Narayanaperumal
8.Arunachalavadivu
9.Madasamy,
S/o.Subbiah
10.Sudalai
11.R.Sadayappan
12.P.Muthu
13.R.Arunchalavadvivammal

... Respondents 2 to 13/ Respondents 2 to 13/
Respondents 1, 3 to 13/ Defendants 1, 3 to 13/

COMMON PRAYER: Petitions filed under Section 115 of Civil Procedure Code, against the fair and decreetal order dated 30.01.2008 passed in E.A.Nos.410 and 411 of 2017 in E.P.No.139 of 2008 in O.S.No.110 of 1996 on the file of the Principal District Munsif Court, Thoothukudi.

For Petitioner : Mr.Niranjan S.Kumar

**COMMON ORDER**

These Civil Revision Petitions have been filed challenging the order dated 30.01.2008 passed in E.A.Nos.410 and 411 of 2017 in E.P.No.139 of 2008 in O.S.No.110 of 1996 on the file of the Principal District Munsif Court, Thoothukudi.

2. Since the issue involved in both the Civil Revision Petitions are one and the same, these Civil Revision petitions are taken up together for hearing and are being disposed of by this common order.

3. The petitioner is the second defendant in the suit. The first respondent has filed the suit in O.S.No.110 of 1996 seeking the relief of declaration and recovery of possession. The petitioner has filed E.A.Nos.410 and 411 of 2017 to set aside the exparte order dated 12.10.2009 passed in E.P.No.139 of 2008 and also to condone the delay of 2924 days in filing the ex-parte order set aside petition.

4. According to the petitioner, no notice was served on him and the first respondent has cunningly provided wrong address in order to get a favourable order. The petitioner would further submit that during the pendency of the execution petition only, the petitioner came to know about the ex-parte order, that too when the Advocate Commissioner inspected the property and thereafter, he approached the counsel and filed E.A.Nos.410 and 411 of 2017 to set aside the exparte order along with delay condonation petition and the same were dismissed by the Trial Court. Aggrieved by which, the present Civil Revision Petitions have been filed by the second defendant.

5. Heard the learned Counsel for the petitioner and perused the materials available on record. Notice to the respondents is dispensed with.

6. Perusal of records shows that the suit is of the year 1996 and it is not true that the petitioner has not received any notice and the suit came to the knowledge of the petitioner only in the execution proceeding. In fact the petitioner had already appointed one Advocate namely Thiru.D.Santhosam and the suit was posted for cross examination of P.W.1 and the petitioner has not appeared and therefore, he was set exparte. Suppressing the above fact he has filed the above application with a huge delay stated that he was aware of the suit only when Execution Proceeding notice was served on him. Considering the attitude of the petitioner the trial Court dismissed the Interlocutory Application with costs. Suppressing the same, again the petitioner has come forward to file these present Civil Revision Petitions, which in my considered opinion is the clear abuse of process of this Court and wasting the time of the Court, which deserves to be dismissed with heavy cost.



7. In the result, these Civil Revision Petitions are dismissed with a cost of Rs.5,000/- (Rupees Five Thousand only) to be paid to the respondents. Consequently, the connected Miscellaneous Petition is closed.

WEB COPY

Sd/-
Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

The Principal District Munsif,
Thoothukudi.

+ 1 CC TO Mr.NIRANJAN S.KUMAR, ADVOCATE IN SR No. 50169

RM

TE/SV/SAR-2 : 07/03/2018 : 3P/3C

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