



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.08.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

C.R.P. (NPD) (MD) Nos.512 and 513 of 2014

and

M.P. (MD) Nos.1 and 1 of 2014

C.R.P. (NPD) (MD) No.512 of 2014

K.Alagar

... Petitioner

Vs.

1.K.Ramu

2.R.Balamurugan

3.R.Mariponnu

... Respondents

PRAYER: This petition is filed under Article 227 of Constitution of India, to set aside the ex-order and fair order, dated 09.10.2013 in I.A.No.303 of 2013 in O.S.No.465 of 2010 on the file of the Principal Sub Court, Dindigul.

C.R.P. (NPD) (MD) No.513 of 2014

R.Saravanan

... Petitioner

Vs.

1.K.Ramu

2.R.Balamurugan

3.R.Mariponnu

... Respondents

PRAYER: This petition is filed under Article 227 of Constitution of India, to set aside the ex-order and fair order, dated 09.10.2013 in I.A.No.305 of 2013 in O.S.No.465 of 2010 on the file of the Principal Sub Court, Dindigul.

For Petitioners

:Mr.A.Balamurugan

For Respondents

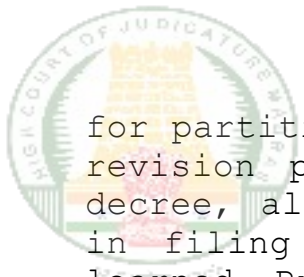
:Mr.A.M.Singarayar Chinnaraja
(in both cases)

COMMON ORDER

These Civil Revision Petitions are filed to set aside the ex-order and fair order, dated 09.10.2013 in I.A.Nos.303 and 305 of 2013 in O.S.No.465 of 2010 on the file of the Principal Sub Court, Dindigul and allow this Civil Revision Petition.

2.The brief facts that are necessary for the disposal of this Civil Revision Petitions are as follows:

2(i). The revision petitioners are the first and second defendants, respectively, in the suit in O.S.No.465 of 2010, which was filed by the respondents in these Civil Revision Petitions,



for partition. In the suit, an ex-parte decree was passed and the revision petitioners filed petitions to set aside the ex-parte decree, along with a petition to condone the delay of 656 days, in filing the petition to set aside the ex-parte decree. The learned Principal Sub Judge, Dindigul has dismissed the said application, as the Revision petitioners have not explained the delay properly. Aggrieved by the order, dismissing the petition to condone the delay, in filing petition to set aside the ex-parte order, the above Civil Revision Petition is filed.

3. Though, the delay is inordinate and there is no proper explanation for the delay, this Court is of the view that due to inadvertence of counsel the delay has not been properly explained and hence the petitioners can be given an opportunity to contest the suit on merits. However, serious prejudice has been caused to the respondents, because the delay is nearly two years. Even after the revision petition is admitted, there has been further delay of four years. Hence, the revision petition can be allowed on terms.

4. Accordingly, these Civil Revision Petitions are allowed and the orders in I.A.Nos.303 and 305 of 2013 in O.S.No.465 of 2010 passed by the Principal Sub Judge, Dindigul, is set aside. The petition in I.A.Nos.303 and 305 of 2013, to condone the delay of 656 days is set aside, on condition that the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) (Rs.5,000/- per each case) to the respondents, within a period of four weeks from the date of receipt of a copy of this order. The learned Principal Sub Judge, Dindigul, is directed to dispose of the suit as expeditiously as possible, preferably, within a period of six month from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar (CS-II)

To

1. Principal Sub Judge,
Dindigul.

2. The Record Keeper,
V.R. Section, (2 Copies)
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.V.Nagendran, Advocate SR.No.76324

Pnn

MK/KAK/SAR 2/14.08.2018/2P/5C

ORDER MADE IN

C.R.P. (NPD) (MD) Nos.512 and 513 of 2014
and M.P. (MD) Nos.1 and 1 of 2014

01.08.2018