



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.08.2018

CORAM :

WEB COPY

THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

C.R.P. (MD) (NPD) No.1324 of 2018
and
C.M.P. (MD) No.5628 of 2018

1.G.Kattaiyan
2.G.Maarimuthu

...Petitioners/Petitioners/Defendants 2&3

/Vs./

S.Kattaiyan

... Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition - filed under Section 115 of the Civil Procedure Code, to set aside the fair and decreetal order dated 16.02.2018 passed in I.A.No.671 of 2017 in O.S.No.225 of 2014 on the file of the learned District Munsif cum Judicial Magistrate at Peraiyur.

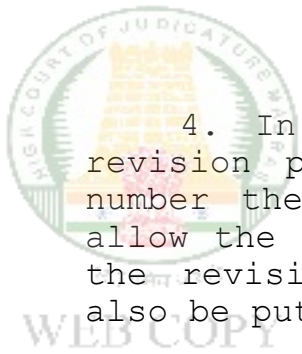
For Petitioners	: Mr.S.Sankara Pandian
For Respondent	: Mr.J.Barathan for Mr.T.R.Jeyapalam

ORDER

The revision petitioners are the defendants 2 and 3 in O.S.No.225 of 2014 on the file of the District Munsif Court cum Judicial Magistrate at Peraiyur. It is a suit for permanent injunction. The plaintiff Kattaiyan had purchased the property in question from one Ganesan, who is the father of the revision petitioners herein. The suit was decreed exparte on 17.07.2017. To set aside the same, the revision petitioners filed an application under Order 9 Rule 13 CPC. There was a delay of 35 days in filing the set aside application. Hence, I.A.No.671 of 2017 was filed for condonation of delay but the same was dismissed by order dated 17.07.2017. The correctness of the said order is challenged in this civil revision petition.

2. Heard the learned counsel on either side.

3. This Court went through the impugned order in full. It is seen that the revision petitioners are working in Army. It is beyond dispute that they were not served in the regular mode. Only for this reason, paper publication was ordered. Therefore, an indulgent view must be taken in this case.



4. In view of the above, the order impugned in this civil revision petition is set aside. The Court below is directed to number the application filed under Order 9 Rule 13 CPC and also allow the same. Since the plaintiff is a purchaser from father of the revision petitioners herein, the revision petitioners should also be put on terms.

5. The revision petitioners agree to pay a sum of Rs.10,000/- [Rupees Ten Thousand only] as cost. The said amount shall be paid directly to the plaintiff by taking a demand draft, which can be handed over to the learned counsel appearing for the plaintiff. If the plaintiff is not willing to accept the same, the revision petitioners shall deposit the said amount to the credit of the suit and it is open to the plaintiff to withdraw the same. The revision petitioners shall also file a written statement, if the same has not already been filed. The suit shall be disposed of within a period of seven months from the date of receipt of a copy of this order.

6. It is made clear that the revision petitioners shall extend their fullest co-operation for the speedy disposal of the suit and under no circumstances, the revision petitioner shall drag on the proceedings beyond this time limit.

7. With the above directions, the civil revision petition is allowed. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar(CS-III)

To

The District Munsif cum Judicial Magistrate,
Peraliyur.

+ 1 CC TO Mr.T.R.JEYAPALAM, ADVOCATE IN SR No. 79168
+ 1 CC TO Mr.S.SANKARAPANDIAN, ADVOCATE IN SR No. 79204

SM
TE/RSK/SAR-3 : 19/09/2018 : 2P/4C

Order made in
C.R.P. (MD) (NPD) No.1324 of 2018
20.08.2018