



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2018

CORAM

WEB COPY

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.1843 of 2018

1. Jeba Dhana Singh
2. Aavin

... Petitioners/Petitioners/
Defendants 3 & 4

Vs.

1. D.Devanesam
2. D.Vijayakumar
3. D.Arulmani Inbam
4. Arul Jyothi Rajam
5. Roselin Manubai

... Respondents/Respondents/
Plaintiffs

PRAYER : Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order made in I.A.No.291 of 2017 in O.S.No.202 of 2017 by the Sub Court, Thiruchendur, dated 12.06.2018.

For Petitioners : Mr.D.Venkatesh
For Respondents : Mr.G.Prabhu Rajadurai

O R D E R

Defendants 3 and 4 in O.S.No.202 of 2017 on the file of the Sub Court, Thiruchendur, are the Revision petitioners herein. The respondents herein filed a suit in O.S.No.394 of 2013 before the Sub Court, Thoothukudi, seeking the relief of partition and for other declaratory reliefs. In the said suit, the respondents herein sought interim injunction against defendants 3 and 4 who are the Revision petitioners herein. The Revision petitioners herein filed their counter. Thereafter, an ex-parte order came to be passed. To set aside the same, the Revision petitioners filed an application under Order 9 Rule 7 of C.P.C. But there was a delay in filing the set aside petition. The said application was dismissed by the Court below by order dated 12.06.2018. Questioning the same, this Civil Revision petition has been filed.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The learned counsel appearing for the Revision petitioners



submitted that the application filed under Order 9 Rule 7 of C.P.C., is very much maintainable and that the question of delay will not arise.

3. Even though very many technical contentions are raised on either side and references are also made to the decisions of this Court, I am of the view that in as much as the Revision petitioners have suffered an order of interim injunction for almost five years, no purpose will be served in allowing this Civil Revision petition and remanding the matter for fresh consideration of the Interlocutory application filed by the respondents herein.

4. The suit was filed originally before the Sub Court, Thoothukudi as O.S.No.394 of 2013. Thereafter, it was transferred to the Sub Court, Thiruchendur and re-numbered as O.S.No.202 of 2017. Though the present suit bears the year 2017, actually the suit is of the year 2013. The Hon'ble Supreme Court has issued a policy guideline that suits cannot be allowed to be pending for more than five years. Therefore, considering the age of the suit, the learned Subordinate Judge, Thiruchendur, is directed to dispose of O.S.No.202 of 2017 within a period of six months from the date of receipt of a copy of this order. It is made clear that the disposal of the suit will not in any way be determined by the fact that the plaintiffs have been enjoying the interim injunction in their favour.

5. With these observations, the Civil Revision petition stands dismissed. No costs.

Sd/
Assistant Registrar(CO)

/True copy/

Sub Assistant Registrar (CS-I)

To

The Subordinate Judge,
Thiruchendur.

COPY TO

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

+1cc to Mr.D.Venkatesh, Advocate, SR.No.85847

+1cc to Mr.G.Prabhu Rajadurai, Advocate, SR.No. 85671

C.R.P. (MD) .No.1843 of 2018
19.09.2018

PMU

KK/RP/SAR-1/17.10.2018/2P-6C