



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).No.113 of 2016 and
C.M.P.(MD)No.484 of 2016

1. Periyasamy

2. Subramani

... Revision Petitioners/Defendants 2 &3

Vs.

1. K.Kuppusamy

2. K.Palanisamy

3. M.Subramaniam

4. S.Gnanapandithan

...Repondents 1 to 3/Plaintiffs

... 4th Respondent /1st defendant

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal order passed in I.A.No.40 of 2012 in unnumbered A.S.No. of 2012 on the file of the Sub Court, Palani, dated 21.11.2015.

For Petitioners : Mr.M.P.Senthil

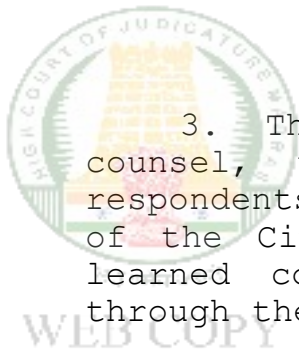
For Respondents 1to3 : Mr.G.Anbusaravanan

For Respondent 4 : Mr.R.Balakrishnan

O R D E R

The Revision petitioners are shown as defendants 2 and 3 in O.S.No.388 of 2001 on the file of the Court of the District Munsif, Palani.

2. It is a suit for bare injunction. The case of defendants 2 and 3/Revision petitioners is that they had purchased the suit property from the first defendant Gnanapandithan and in the written statement, they have denied the plaintiffs' title. But then, the Court below has decreed the suit as prayed for by Judgment and Decree dated 24.06.2008. Questioning the same, the Revision petitioners filed a first appeal before the Sub Court, Palani. But there has been a delay of 1482 days in preferring the said first appeal. The Court below dismissed the said condone delay petition by order dated 21.11.2015. The correctness of the said order is under challenge in this Civil Revision petition.



3. Though the respondents had entered appearance through counsel, today there is no representation on behalf of the respondents before this Court. Therefore, this Court has to dispose of the Civil Revision petition based on the submissions of the learned counsel for the contesting defendants and after going through the materials on record.

4. I went through the contents of the written statement. A very substantial defence has been taken in the written statement. The first petitioner examined himself as D.W.2. As many as 12 documents were marked on the side of the Revision petitioners. This is a contested suit.

5. Therefore, this Court is of the view that the Revision petitioners deserve to be given an opportunity to prosecute the first appeal. However, the Revision petitioners will have to be put on terms. The learned counsel for the Revision petitioners undertake that the Revision petitioners will deposit a sum of Rs.10,000/- before the First Appellate Court and the same can be withdrawn by the plaintiffs. Such a deposit will be made to the credit of I.A.No.40 of 2012 in unnumbered first appeal on the file of the learned Subordinate Judge, Palani, within a period of two weeks from the date of receipt of a copy of this order. Subject to this condition, the order passed by the learned Subordinate Judge, Palani, in I.A.No.40 of 2012 in unnumbered first appeal, dated 21.11.2015, is set aside and the Civil Revision petition stands allowed. The learned Subordinate Judge, Palani, shall also formally number the first appeal and dispose of the same within a period of four months, thereafter. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Subordinate Judge,
Palani.

+1cC to Mr.M.P.Senthil Advocate in SR.No.79346.

PMU

DS SKN SAR 2 :23.08.2018: 2P/3C

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