



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2018

CORAM :

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (NPD) (MD) Nos.2131 of 2016 and C.R.P. (PD) (MD) .936 of 2017
and
C.M.P. (MD) .Nos. 9998 of 2016 and 4099 & 4100 of 2017

In C.R.P. (MD) Nos.2131 of 2016:

1.Saroja

2.P.Murugan @ Pauliah

(Petitioners 1 & 2 are represented
by their Power holder
M.Thanka Nadar)

.. Petitioners / Respondents 1 & 2 /
Plaintiffs 1 & 3
vs.

1. P.Selvakumar

2. P.Ashok

(Respondents 1&2 are represented
by their Power Agent and Father
N.Paramasivam)

.. Respondents 1 & 2/Respondents/
Proposed Party Defendants 3 and 4

3. Anthony @ Rajappa

.. 3rd Respondent/ 3rd Respondent/
1st Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 27.04.2016 passed in I.A.No.230 of 2014 in O.S.No.58 of 1995 on the file of the I-Additional Sub Judge, Nagercoil.

For Petitioners : Ms.P.Jessi Jeeva Priya
for Mr.G.Aravinthan

For Respondents 1 & 2 : Mr.H.Thayumanaswamy for
For Respondent No.3 : No appearance

In C.R.P. (MD) Nos.936 of 2017:

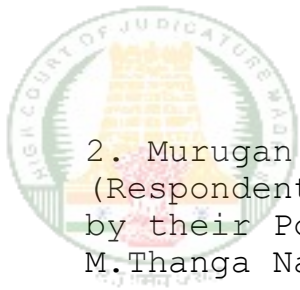
1.P.Selvakumar

2.P.Ashok

(Petitioners 1 & 2 are represented
by their Power Agent and Father
N.Paramasivam)

.. Petitioners / Petitioners / Defendants
vs.

1. P.Saroja



2. Murugan @ Pauliah
(Respondents 1 & 2 are represented
by their Power Agent
M.Thanga Nadar)

.. Respondents 1 & 2/
Respondents 1 & 2 /Plaintiffs

WEB COPY

3. Anthony @ Rajappa .. 3rd Respondent/ 3rd Respondent/
1st Defendant

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order, dated 06.01.2017 passed in I.A.No.141 of 2015 in O.S.No.58 of 1995 on the file of the I-Additional Sub Judge, Nagercoil.

For Petitioners : Mr. H.Thayumanaswamy
For Respondents 1 & 2 : Ms.P.Jessi Jeeva Priya
for Mr.G.Aravinthan
For Respondent No.3 : No appearance

COMMON ORDER

The revision petitioners in C.R.P.(MD).No.2131 of 2016 filed O.S.No.58 of 1995 on the of the I-Additional Sub Judge, Nagercoil seeking the relief of declaration and injunction and recovery of possession. The said suit was decreed exparte on 21.01.2002. The execution petition was filed for executing the said decree. In the said execution proceedings, the contesting respondents filed obstruction petition in the year 2013. Thereafter, in the year 2014, they filed I.A.No.140 of 2015 for setting aside the exparte decree. Since there was delay in filing the same, I.A.No.230 of 2014 was also filed for condoning the delay in filing the said I.A.No.140 of 2015. The Court below, by order dated 27.04.2016 allowed the same. Questioning the correctness the said order, C.R.P.(MD).No.2131 of 2016 came to be filed.

2. The petitioners in C.R.P.(MD).No.936 of 2017 filed I.A.No.141 of 2015 in O.S.No.58 of 1995 to implead them as additional defendants 3 & 4 in the suit proceedings. The said IA was dismissed on 06.01.2017. Questioning the correctness of the said order, C.R.P.(MD).No.936 of 2017 has been filed.

3. Heard the learned counsel on either side.

4. It is not in dispute that the contesting respondents herein had purchased the suit property in the year 1994 itself. Eventhough, the revision petitioners in C.R.P.(MD).No.2131 of 2016 filed the suit as a pauper in the year 1990 itself, the suit came to be numbered only in the year 1995. The contesting respondents in C.R.P.(MD).No.2131 of 2016 had purchased the property one year prior to that and they were not made party to the suit proceedings. It cannot be stated that there was an inordinate delay in filing the application for setting aside the exparte decree. It is obvious that they got knowledge of the decree only in the year 2013



and filed an obstruction petition. Therefore, the Court below is right in allowing the I.A.No.230 of 2014.

5. This Court is of the view that the contesting respondents deserve to be given an opportunity to contest the suit on merits. The Court below has numbered the petition filed under Order 9 Rule 13 CPC., as I.A.No.140 of 2015 and the same is pending. The Court below shall allow the said IA and permit the purchasers/proposed defendants 3 & 4, to contest the suit on merits.

6. Since the suit is of the year 1994, the Court below shall conclude the entire suit proceedings within a period of six months from the date of receipt of a copy of this order. Accordingly, C.R.P.(MD).No.2131 of 2016 stands dismissed. No Costs. Consequently, connected miscellaneous petition is dismissed.

7. In view of the order passed in C.R.P.(MD).No.2131 of 2016, the order impugned in C.R.P.(MD).No.936 of 2017 is set aside and accordingly, C.R.P.(MD).No.936 of 2017 stands allowed. No Costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS-IV)

To

1. The I-Additional Sub Judge,
Nagercoil.

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

+2 CC To MR.H.THAYUMANASWAMY, Advocate SR. NO.79270 & 79271

+2 CC To MR.P.JESSI JEEVA PRIYA, Advocate SR. NO. 79404 & 79402

**C.R.P. (MD) Nos.2131 of 2016
and 936 of 2017**

20.08.2018

PJL

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