



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.08.2018

CORAM

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

C.R.P. (PD) (MD) No.2255 of 2016

and

C.M.P. (MD) .No.10457 of 2016

Sellammal

.. Petitioner/Respondent/Plaintiff

/Vs./

Ramasamy (died)

Vasudevan (died)

1.Duraisamy

2.Rajamani

.. Respondents/Petitioners/Defendants

PRAYER: This Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to call for the records relating to the order in I.A.No.840 of 2009 in O.S.No.211 of 1994, dated 07.09.2016 on the file of the District Munsif, Turaiyur and set aside the same.

For Petitioner

: Mr.N.Mohan

For R1

: Mr.S.Muthukrishnan

O R D E R

The revision petition is the plaintiff in O.S.No.211 of 1994 on the file of the District Munsif Court, Thuraiyur. The defendants suffered an ex-parte decree. To set aside the same, they filed a set aside application. There was a huge delay of 781 days. To condone the same, I.A.No.840 of 2009 was filed. The said application was allowed by the court below. To question the same, this Civil Revision Petition has been filed.

2. Heard the learned counsel on either side.

3. The learned counsel appearing for the revision petitioner submitted that the delay occasioned in this case is inordinate and that the reasons set out in the affidavit filed in support of the condone delay petition are not sufficient. He also stated that the plaintiff is aged about 90 years and the suit is of the year 1994.

4. Though the submission of the learned counsel for the revision petition has considerable force, I am of the view that the impugned order being a discretionary one, it does not warrant any interference by this Court. However, the respondents have to be put on further terms. Some direction will have to be given.



5. The order impugned in this Civil Revision Petition is confirmed. The Court below shall number the set aside application and allow the same. The respondents will have to be given one more opportunity to contest the suit on merits and the respondents shall pay a further sum of Rs.5000/- (Rupees five thousand only) to the plaintiff directly within a period of one week from the date of receipt of a copy of this order. Since the suit is of the year 1994, the court below shall conclude the suit proceedings within a period of 2 months. The counsel on either side undertake that the parties would extend their fullest co-operation for concluding the suit proceedings within the aforesaid time limit.

6. With the above direction, this Civil Revision Petition is disposed of. No costs. Consequently, connected C.M.P. (MD) No.10457 of 2016 is closed.

Sd/-

Assistant Registrar (crl side)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The District Munsif, Thuraiyur.
2. The Section Officer, (2 copies)
V.R. Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to Mr. N. Mohan, Advocate Sr. No. 79784

+1cc to Mr. S. Muthukrishnan, Advocate Sr. No. 79871

CM

VB/RSK/SAR1/19.09.2018/2P/6C

**C. R. P. (PD) (MD) No. 2255 of 2016
and C. M. P. (MD) No. 10457 of 2016
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