



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 23.10.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CRP (NPD) (MD)No.2434 of 2016

1.Vasanthi
2.Ganesamoorthy
3.Gayathri

... Petitioners/Petitioners/Plaintiffs

Vs.

K.Sakthivel (died)
Jeyabarathi

...Respondent/Respondent/ 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.340 of 2009 in O.S No.384 of 2001 on the file of the District Munsif, Palani dated 30.03.2015.

For Petitioner : Mr.M.P.Senthil
For Respondents : Mr.S.Anand Chandrasekar
for M/s.Sarvabhauman Associates

ORDER

O.S No.384 of 2001 on the file of the District Munsif Court, Palani was filed by the revision petitioners herein seeking the relief of maintenance as well as partition and for creation of a charge over the suit property. The suit came to be dismissed for default on 14.03.2005. Seeking its restoration, an I.A came to be filed. But then, there arose a delay of 1553 days in filing the said application. To condone the delay, I.A No.340 of 2009 was filed. The matter had seen an earlier round of litigation. By the order impugned in this civil revision petition, the said application was dismissed on 30.03.2015. Questioning the same, the plaintiffs have filed the present Civil Revision Petition.

2.The learned counsel appearing for the revision petitioner reiterated the contentions set out in the memorandum of grounds. I am unable to agree with the same. As rightly pointed out by the learned counsel appearing for the respondent, the suit was filed against one Sakthivel who is the first defendant and father of the other two plaintiffs. The said Sakthivel is no more. It is only Jeyabarathi, the second defendant who is contesting the proceedings. The said Jeyabarathi is a purchaser of the suit property from the said Sakthivel in the year 2000. The learned counsel for the respondent points out that the property in question was purchased by Sakthivel in the year 1995 and sold to the respondent herein in the



year 2000. In the year 1999, the property was alienated by the first plaintiff Vasanthi and the said Sakthivel had attested the said sale transfer. It is the specific allegation of the respondent that after selling the property to Jeyabarathi the said Sakthivel has engineered the wife and children to institute the suit in question.

3.The property was purchased in the year 2000. We are in the year 2018. The contention of the respondent's counsel is that allowing this civil revision petition would only revive a stale and vexatious issue. I find considerable force in the said objection. The delay occasioned in this case is inordinate. The suit is of the year 2001. It was allowed to be dismissed for default. It was restored thereafter. Again in the second round, it was allowed to be dismissed for default. The restoration application was filed with a delay of 1553 days. For condoning such long delay, sufficient cause must be made out. The court below after going through the affidavit filed in support of the I.A No.340 of 2009 has come to the conclusion that sufficient cause has not been made out.

4.I am fully satisfied that the court below has approached the issue from a correct perspective. There is absolutely no reason to differ from the decision of the court below. This Court finds no merit in this civil revision petition. This civil revision petition stands dismissed. No costs.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

The District Munsif, Palani.

+1cc to Mr.M.P.Senthil, Advocate Sr.No.91351

+1cc to M/s.Sarvabhauman Associates Sr.No.91680

SKM

VB/SV/SAR1/13.12.2018/2P/4C

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