



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.08.2018

CORAM:

WEB COPY

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.350 of 2016
and
C.M.P. (MD) .No.1476 of 2016

The President,
Kampaneri Panchayat,
Tenkasi Taluk,
Tirunelveli District.

... Revision Petitioner/1st Defendant

-vs-

Gurusamy

... Respondent/Plaintiff

Prayer: Civil Revision Petition under Article 227 of the Constitution of India as against the fair and decreetal order dated 20.02.2015 passed in I.A.No.746 of 2014 in O.S.No.87 of 2010 on the file of the Additional District Munsif Court, Tenkasi.

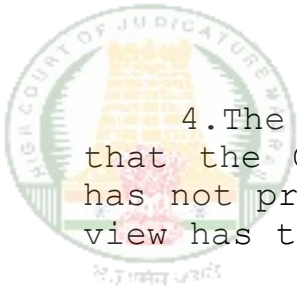
For Petitioners : Mr.T.S.Mohamed Mohideen
For Respondent : Mr.T.Selvan

ORDER

Heard the learned counsel appearing on either side.

2.The respondent in the Civil Revision Petition filed a suit in O.S.No.87 of 2010 before the Additional District Munsif Court, Tenkasi, seeking the relief of permanent injunction as well as mandatory injunction. The local panchayat was shown as the defendant. An exparte decree came to be passed. To set aside the same, the revision petitioner filed an application in I.A.No.746 of 2014 under Order 9 Rule 13 of Civil Procedure Code. There was a delay of 416 days in filing the said I.A. The court below by order dated 20.02.2015 dismissed the said I.A. Challenging the same, this Civil Revision Petition has been filed.

3.The learned counsel appearing for the respondent pointed out that no sufficient cause has been made out for condoning the delay. Therefore, he prayed for sustaining the impugned order.



4.The revision petitioner is a local authority. It appears that the Government counsel, who was entrusted with the matter, has not prosecuted the matter properly and therefore, an indulgent view has to be adopted.

5.A school has been constructed in the property in question. Therefore, the revision petitioner deserves to be given an opportunity to seek decision in the matter on merits. The learned counsel for the revision petitioner also undertakes that the revision petitioner shall pay a sum of Rs.5,000/- (Rupees five thousand only) directly to the plaintiff as costs within a period of six weeks from today.

6.Recording the same, this Court sets aside the order impugned in this Civil Revision Petition and also condones the delay occasioned in filing the setting aside application. The Court below shall formally number the set aside application. The revision petitioner has filed the written statement along with the setting aside application. The entire suit proceedings shall be completed within a period of six months from the date of receipt of a copy of this order.

7.Accordingly, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Additional District Munsif,
Tenkasi.

+ 1 CC TO Mr.T.S.MOHAMED MOHIDEEN, ADVOCATE IN SR No. 77870
+ 1 CC TO Mr.T.SELVAN, ADVOCATE IN SR No. 77978

VS

TE/KAK/SAR-4 : 27/08/2018 : 2P/4C

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