



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) No.1849 of 2018

and

C.M.P. (MD) No.8107 of 2018

1.Gomathiammal

2.Mariappan

.. Petitioners / Petitioners/
Defendants

vs.

Agniveeranan

.. Respondent / Respondent/Plaintiff

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 29.08.2017 passed in I.A.No.638 of 2016 in O.S.No.80 of 2014 on the file of the Additional Sub Court, Dindigul.

For Petitioners : Mr.D.Selvaraj

ORDER

The revision petitioners are defendants in O.S.No.80 of 2014 on the file of the Additional Sub Court, Dindigul. The respondent herein filed the said suit seeking the relief of specific performance. The revision petitioners allowed the suit to be decreed exparte. Thereafter, execution petition was filed by the respondent herein. The revision petitioners appeared in the execution Court through counsel on 09.09.2015. The sale deed has been executed and EP also has been terminated. Thereafter, set aside petition was filed. There was a delay of 610 days in filing the same. I.A.No.638 of 2016 was filed to condone the said delay. The Court below has stated as follows for dismissing the IA filed by the revision petitioners herein.

"7.The petitioners though place their health condition as the reason for not filing written statement on time and proper information was not passed by their then counsel on record, no satisfying reason is put forth for not coming up with an application, when they appeared on 09.09.2015 itself in E.P.78/15. From 09.0-9.2015 to 28.11.2016, nearly an year they kept quiet and no answer from them.

8. On 09.09.2015, these petitioners have entered appearance through very same counsel in E.P.78/15 (Ex.R1). This Section 5 application has been filed only after sale deed was registered on 18.11.2016. The



petitioners have been mute spectators, and how they cannot take shelter, or take umbrage under the head, due to health condition and non communication by earlier counsel on record.

9. On production of registered sale deed, the EP has been terminated. The attitude of the petitioners, keeping silent all along, having let the water flow now cannot stop the proceedings and take it back to the starting stage. The petitioners want to start the proceedings afresh. The same could be granted to a litigant, who was vigilant and who has no knowledge of the proceedings. But, law could not and will not come to the aid of a person, who slumbers and refuses to wake up. This is nothing but an abuse of process of law.

10. This petition is devoid of merits and the prayer of petitioners cannot be granted, closing the eye, to the difficulty, of the respondent. The respondent has been remedied, and now pushing him to contest the case again, for no fault of his, the same cannot be compensated in terms of money. Hence, there being no merit, this petition to condone delay is hereby dismissed. No Cost."

2. I find no reason to interfere with this order. There is no merit in the Civil Revision Petition. Hence, the Civil Revision Petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is dismissed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar(CS-IV)

To

The Additional Sub Judge,
Dindigul.

C.R.P. (MD) No.1849 of 2018
05.09.2018

PJL

ES/SKN/RSK/SAR 4/16.10.2018/2P/2C