



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.09.2018

CORAM:

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

C.R.P. (MD).No.1926 of 2018 (NPD)

Krishnamoorthy

...Revision Petitioner/3rd Party/
Proposed 6th respondent

vs.

- 1.Ramasamy
- 2.Ramaraj
- 3.Rajaram
- 4.Ramanathan
- 5.Saroja
- 6.Petchiammal
- 7.Ramakrishnan
- 8.Kannammal
- 9.Ramalakshmi
- 10.Saraswathy
- 11.Jeeva Granite

Through its Managing Director
Ravichandran
Having Office at:D/No-5D/11,
Pasuvanthanai Road,
Kovilpatti Town.

...Respondents/Respondents/Plaintiffs

... Respondents/Respondents/Defendants

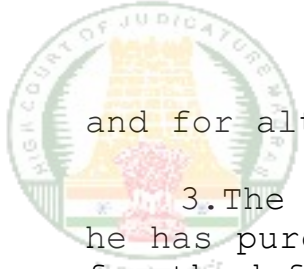
PRAYER: This Civil Revision Petition filed under Section 115 of the code of Civil Procedure, against the fair and decreetal order dated 04.07.2018 passed in I.A.No.59 of 2017 in O.S.No.144 of 2007 on the file of the Additional District Munsif, Kovilpatti.

For Petitioner: Mr.H.Velavadhas

ORDER

This revision is directed against the order of dismissing the application under Section 5 of the Limitation Act, filed for condoning the delay of 3038 days in setting aside the ex-parte decree.

2.The suit in O.S.No.144 of 2007 before of the Additional District Munsif, Kovilpatti, has been filed by one Ramasamy and five others against the defendants for declaration and injunction



and for alternative relief of recovery of possession.

3. The petitioner herein is the purchaser of the property and he has purchased the said property from one Saraswathi, who is the fourth defendant in the suit. Besides, the said fourth defendant remained ex-parte in the suit and the said suit was decreed on 07.08.2008. The revision petitioner has purchased the property from the said Saraswathi on 24.10.2008, subsequent to the ex-parte decree for valuable consideration. From the date of purchasing, the revision petitioner claims to be in possession of the suit property. Admittedly, the vendor of the petitioner had suppressed the ex-parte decree passed against her. While so, the patta stands in the name of the petitioner was changed without his knowledge, which information, he got by filing a petition under Right To Information Act. It is also stated that the vendor of the petitioner has collusively allowed the suit to be decree ex-parte, as already she had parted with the property by selling it to the petitioner suppressing the said fact. Therefore, the revision petitioner wanted to set aside the ex-parte decree after the length of 3038 days delay. The said application was dismissed on the ground that the delay of 3038 days is too long and no reason whatsoever has been assigned by the revision petitioner.

4. Besides, the learned Additional District Munsif, Kovilpatti also held that when the revision petitioner not being a party to the suit, he cannot maintain the application filed under Order 9 Rule 13 of C.P.C. When the revision petitioner has got no locus-standi to set aside the decree, the petition which has been filed after a delay of 3038 days is not maintainable.

5. Though it is stated that he has filed an application from the date of his knowledge, the application is rightly dismissed and there is no reason to interfere with the same. From the facts, it is seen that the revision petitioner has been defrauded by the fourth respondent in the suit by suppressing the fact that she has suffered a decree even before the date of the sale. Therefore, it is open to the revision petitioner to take appropriate action by initiating both civil and criminal proceedings, before the appropriate forum, if he is so advised.

6. With the above observation, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //



To

The Additional District Munsif,
Kovilpatti.

+1 CC TO MR.H.VELAVADHAS, ADVOCATE IN SR NO.83957

NS

BU/PM/SAR-II : 01.10.2018 : 3P/3C

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