



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 20.08.2018  
CORAM  
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD).No.25 of 2016 and  
C.M.P.(MD)No.116 of 2016

WEB COPY

1. Meenakshi
2. Ravichandran
3. Pandiselvam
4. Balamurugan
5. Marichamy
6. Mahendran
7. Annalakshmi

... Petitioners/Petitioners/Defendants  
Vs.

1. K.Ramasamy Naicker (Died)
2. K.Selvam
3. Thayammal
4. Ponmaiyan
5. Rajammal
6. Pommakkal
7. Sundararajan
8. Lingammal
9. Lakshmi

(R-3 to R-9 are brought on record as  
the legal heirs of the deceased first  
respondent vide Order dated 20.08.2018  
in C.M.P.(MD)No.11029 of 2017)

... Respondents

PRAYER : Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside the order dated 01.12.2015 made in I.A.No.83 of 2015 in O.S.No.213 of 2012 on the file of the learned District Munsif, Madurai Taluk.

|                 |                         |
|-----------------|-------------------------|
| For Petitioners | : Mr.R.Suriya Narayanan |
| For R-2         | : Mr.K.Hemakarthiskeyan |
| For R-1         | : Died.                 |

**ORDER**

The Revision petitioners are the defendants in O.S.No.213 of 2012 on the file of the Court of the District Munsif, Madurai Taluk.

2. The suit is for declaration and permanent injunction. The defendants were set ex-parte and ex-parte decree came to be passed. To set aside the same, the Revision petitioners filed a petition under Order 9 Rule 13 of C.P.C. There was a delay of 278 days in filing the said application. To condone the delay, I.A.No.83 of 2015 was filed. The said application was dismissed on 01.12.2015. Questioning the correctness of the said order, this Civil Revision petition came to be filed.



3. The learned counsel appearing for the Revision petitioners submitted that the Revision petitioners deserve to be given one more opportunity to contest the suit on merits. He also pointed out that the delay in filing the setaside petition cannot be said to be inordinate. In any event, they have set out sufficient reasons in the affidavit filed in support of I.A.No.83 of 2015.

4. This Court is unable to agree with the submissions of the learned counsel for the Revision petitioners. Normally, this Court would adopt an indulgent attitude in such matters. But then, on going through the facts of this case, it is seen that the plaintiffs had purchased the suit property from the very same defendants way back in the year 1991. It was a registered sale deed. Thereafter, to grab the property from the plaintiffs, the second defendant Ravichandran sold the suit property in favour of the seventh defendant who is none other than his wife.

5. Defendants 1 to 6 executed a sale deed in favour of the seventh defendant who is none other the wife of the second defendant. This is necessitated the filing of the present suit. When the plaintiffs became aware of the same, the defendants appears to have received notice in the said suit. But then, they did not file any written statement. Ex-parte decree came to be passed. Thereafter, the setaside petition was filed. There was a huge delay in filing such application. The petitioners falsely claimed that they were at Kerala and they could not have filed the setaside petition within time. But the plaintiffs demonstrated the falsity of such arguments. The defendants are residing in the very same village. In fact the defendants had been working in 100 days employment scheme.

6. That apart the plaintiffs filed execution petition and got a finding that the sale transaction cancelled from the Encumbrance Register. Therefore, if the Civil Revision petition is allowed, it would only revive a frivolous defence in the suit. It is also seen that mutation has been effected in the revenue records. Absolutely, there is no bona fides in the conduct of the Revision petitioners. Therefore, affirming the reasons given by the Court below for dismissing the condone delay petition, this Court dismisses this Civil Revision petition also.

7. The Civil Revision petition stands dismissed, accordingly. No costs. Consequently, connected Miscellaneous petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/



To

1. The District Munsif,  
Madurai Taluk.

2. The Record Keeper, V.R.Section,  
Madurai Bench of Madras High Court,  
Madurai. **(2 Copies)**

+1CC to Mr.R.Suriya Narayanan, Advocate, SR.No.79467

+1CC to Mr.K.Hemakarthiskeyan, Advocate, SR.No.79747

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