

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(PD).No.4671 of 2013 and
M.P.No.1 of 2013

Tamil Selvan

... Petitioner

v.

1. T.Muthaiyan

2. Sundar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 13.08.2013 made in I.A.No.299 of 2012 in O.S.No.272 of 2010 on the file of the Additional District Munsif, Mayiladuthurai.

For Petitioner : Mr. A. Muthukumar

For Respondents : No Appearance

ORDER

Challenging the fair and final order passed in I.A.No.299 of 2012 in O.S.No.272 of 2010 on the file of the Additional District Munsif Court, Mayiladuthurai, the plaintiff has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.272 of 2010 for mandatory injunction and permanent injunction. Since the defendants failed to appear before the Trial Court, an *ex parte* decree was passed on 18.10.2010. Thereafter, the petitioner filed an application in I.A.No.299 of 2012 to condone the delay of 683 days in filing the application to set aside the *ex parte* decree dated 18.10.2010.

3. In the affidavit filed in support of the application, the defendants have stated that a Panchayat was held to settle the dispute between the parties. Hence, the defendants were under the *bona fide* impression that the plaintiff would not prosecute the suit. Further, the defendants have stated that they came to know about the filing of the suit only when they received summons in the Execution Petition. The defendants have also stated that they have constructed

houses in the suit property and are residing in the said houses for more than three generations. The application filed by the defendants was opposed by the plaintiff.

4. The Trial Court, after taking into consideration the case of both the parties, accepted the reasoning given by the defendants for the delay and allowed the application. Aggrieved over the same, the plaintiff has filed the above Civil Revision Petition.

5. When the defendants have categorically stated that there was Panchayat and a compromise was entered between the parties and pursuant to the same, they also removed the branches of bamboo trees situated near the plaintiff backyard in the year 2011 and that only because of the said Panchayat, they were under the *bona fide* impression that the plaintiff would not prosecute the suit was rightly accepted by the Trial Court.

6. When the defendants have given sufficient reasons for condoning the delay of 683 days, which was rightly condoned by the Trial Court, I do not find any reason to interfere with the order passed by the

Trial Court. Hence, the Civil Revision Petition is liable to be dismissed. Since the suit is pending from the year 2010, I direct the Additional District Munsif Court, Mayiladuthurai, to dispose of the suit in O.S.No.272 of 2010, on merits and in accordance with law, within a period of six months, from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

27.09.2019

Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

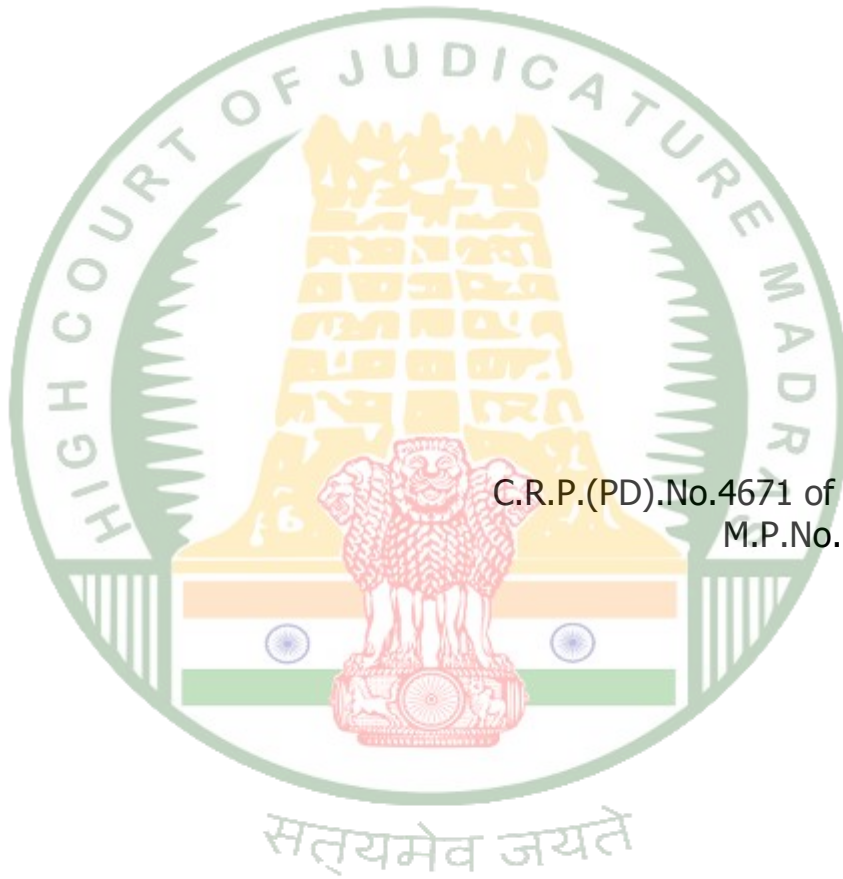
The Additional District Munsif Court,
Mayiladuthurai,

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C.R.P.(PD).No.4671 of 2013

M.DURAISWAMY, J.

Rj



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