

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD)No.834 of 2016

1.Danasekaran

2.Karunakaran

... Petitioners

Vs.

1.Kasthuri

2.Andal

3.Gowri

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C. against the fair and decreetal order passed on 24.11.2015 in I.A.No.27 of 2014 in unnumbered A.S.No. Of 2014 on the file of the Principal District Judge, Tiruvallur filed against O.S.No.86 of 2005 on the file of Subordinate Judge Poonamallee.

For Petitioners : Mr.S.Balasubramanian

For Respondents 1-3 : Mr.P.S.Vasanthakumar

ORDER

This Civil Revision Petition has been filed against the fair and decreetal order passed on 24.11.2015 in I.A.No.27 of 2014 in unnumbered A.S.No. Of 2014 on the file of the Principal District Judge, Tiruvallur filed against O.S.No.86 of 2005 on the file of Subordinate Judge Poonamallee.

2. The petitioners are the defendants 2 & 3 in the suit for partition filed by the respondents herein. Since they failed to file the written statement, they were set exparte and preliminary decree was passed on 30.12.2005. Thereafter, the respondents / plaintiffs filed I.A.No.372 of 2006 for passing final decree, before the Trial Court and in that application notice was served on the petitioners / defendants on 10.07.2006. Thereafter, the defendants filed an application in I.A.No.33 of 2007 to set aside the exparte preliminary decree with a delay of 227 days. The said I.A.No.33 of 2007 was dismissed for default on 06.06.2007. Thereafter, they have filed another application viz. I.A.No.468 of 2007 to restore I.A.No.33 of 2007 which was with a delay of 10 days. The above said I.A.No.468 of 2007 was also dismissed on 18.07.2007 against which they preferred a Civil Miscellaneous Appeal along with a condone delay petition in I.A.No.95 of 2009. In the condone delay petition, notice was ordered since the petitioners failed to pay batta

26.11.2009. Again as usual, they filed I.A.No.84 of 2010 to set aside the order passed in I.A.No.95 of 2009. This time it was allowed on merits on 17.03.2011 on condition of payment of cost of Rs.10,000/- to the respondents. The petitioners failed to pay the cost, but preferred the Civil Revision Petition before this Court in vide. C.R.P.No.3259 of 2013 and the same was dismissed on 19.07.2013.

3. The petitioners have filed an appeal against the preliminary decree, with a long delay of 2181 days before the District Court. Since, the petitioners have failed to conduct the case and failed to give sufficient reasons for the delay happened, the trial Court dismissed the application to condone the delay, against which, the present Civil Revision Petition is filed.

4. From the dates and events narrated above, it is very clear that the petitioners are chronic defaulters, who have failed to contest the case vigilantly. For the past 13 years they have been pursuing in the direction of filing applications after application for setting aside exparte orders and to condoning the delay in restoring them and ultimately allowed them to go for default. The very conduct of the petitioners is explicit by the number of applications filed by them. In such circumstances, I do not find any merits in the revision petition as it is evident that the petitioners, with an ulterior motive to drag on the proceedings, have come out with the above revision. Therefore, the petition deserves to be dismissed.

M. GOVINDARAJ, J.

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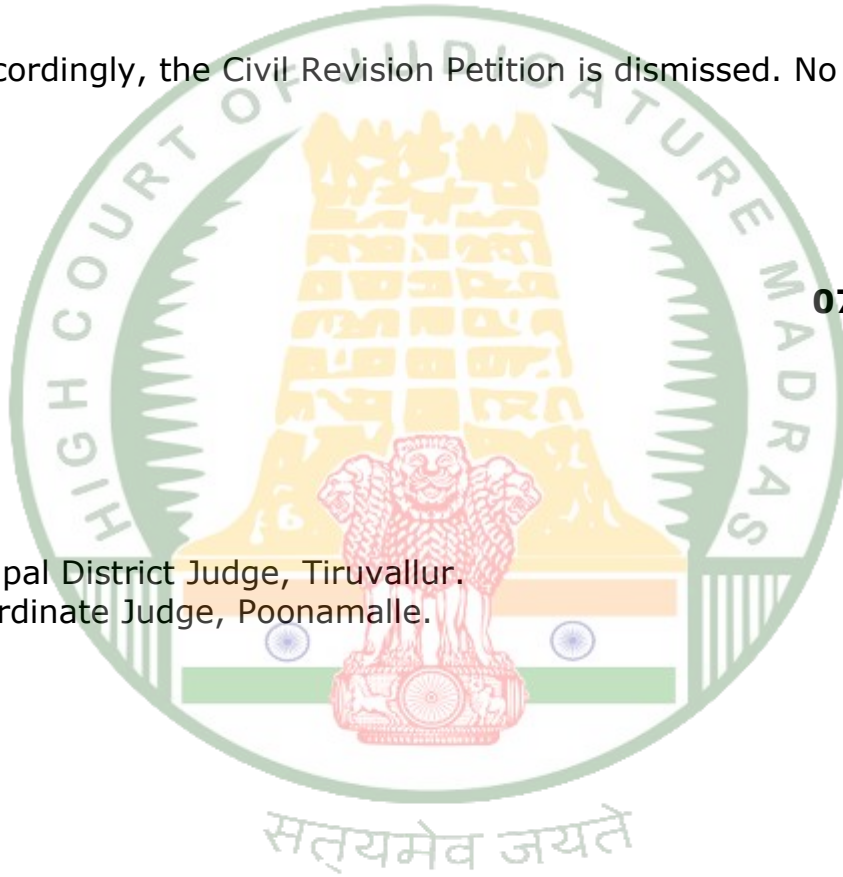
5. Accordingly, the Civil Revision Petition is dismissed. No costs.

07.06.2019

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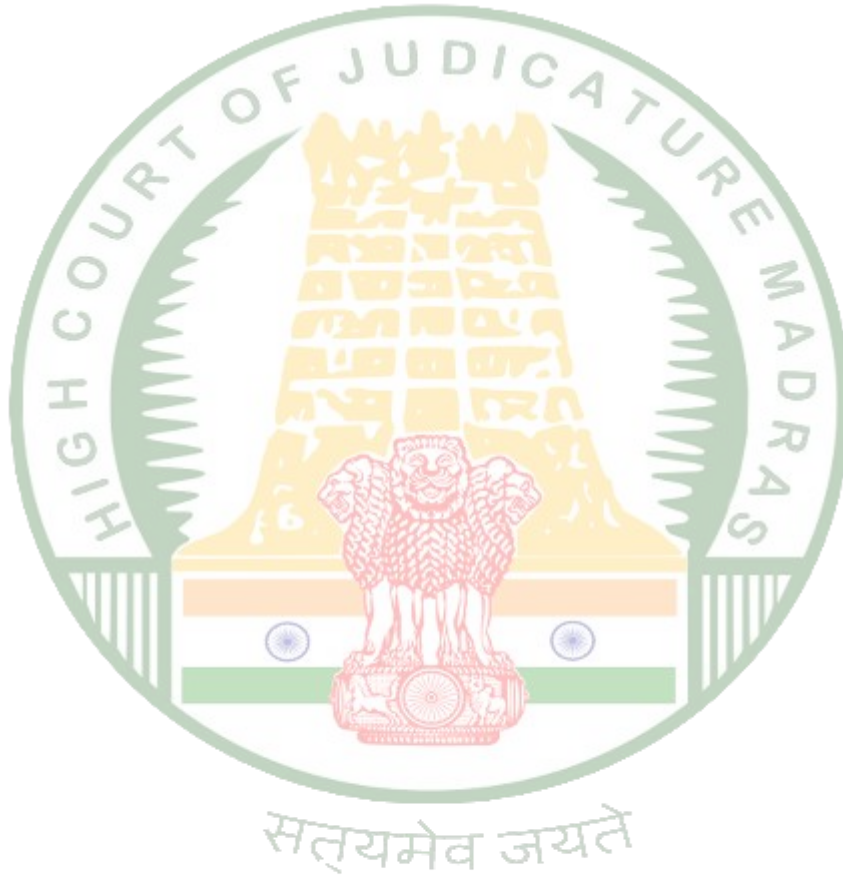
To

- 1.The Principal District Judge, Tiruvallur.
- 2.The Subordinate Judge, Poonamalle.



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