

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Rev.Appl.No.79 of 2018
and C.M.P.No.7098 of 2018

Poongavana Gounder (died)

- 1.Renu
- 2.Shanthi
- 3.Kala

.. Petitioners

Vs.

- 1.Arulmighu Dharmaraja
Dhrowpathiamman Koil,
Velapadi,
Rep. by its Executive Officer,
Velapadi, Vellore-1.

- 2.Pachaiyammal
- 3.Mani
- 4.Murugesan

.. Respondents

PRAYER: Review Application has been filed under Order XLVII Rule 1 & 2 read with Section 114 of C.P.C., to review the order of this Court dated 08.12.2017 made in C.R.P.No.4183 of 2011.

For Petitioners : Mr.A.Gouthaman

ORDER

This Review Application is filed to review the order of this Court dated 08.12.2017 made in C.R.P.No.4183 of 2011.

2. Heard the learned counsel appearing for the petitioners and perused the materials available on record.

3. The learned counsel appearing for the review petitioners has contended that the suit summons were not served on their father Poongavana Gounder and it was served to one Murugan, one of the sons of the deceased Poongavana Gounder. The plaint copy was not served on Poongavana Gounder as contemplated under Order V Rule 2 C.P.C. The review petitioners were not parties to the suit and ex parte decree is not binding on them. The review petitioners were impleaded as legal heirs of the said Poongavana Gounder in the execution petition. The petitioners came to know about the ex parte decree on 25.08.2008 and within 30 days, application to set aside the ex parte decree was filed only as a precautionary step and prayed to review the order made in Civil Revision Petition.

4. From the materials available on record, it is seen that the contention of the learned counsel appearing for the review petitioners that the suit summons were not served on their father Poongavana Gounder was considered by this Court and rejected the same on the ground that the said Poongavana Gounder entered

appearance through advocate Mr.A.Kumarasamy and did not contest the suit subsequently. The review petitioners have admitted that they came to know about the exparte decree on 25.08.2008 and they filed application to set aside the exparte decree within 30 days from the date of knowledge. The application to set aside the exparte decree was filed along with I.A.No.686 of 2010 to condone the delay of 657 days in filing the application to set aside the exparte decree. The first review petitioner has sworn to the affidavit only on 25.06.2010. The learned counsel for the review petitioners is trying to re-argue the matter on the issues already heard and decided by this Court. He has not pointed out any error apparent on the order of this Court dated 08.12.2017 dismissing the Civil Revision Petition.

5.In the result, the Review Application is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Index:Yes/No

kj

24.01.2019

WEB COPY

V.M.VELUMANI,J.

kj



Rev.Appl.No.79 of 2018
and C.M.P.No.7098 of 2018

WEB COPY 24.01.2019