

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD)No.2399 of 2014

and

M.P. No.1 of 2014

N. Jayaraman ... Petitioner

Vs

1. Soundarammal (died)
2. Subbulakshmi
3. Poongodi
4. Padmavathi ... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order dated 31.07.2012 passed by the Hon'ble District Munsif Judge at Tirupur, in I.A. No.1214 of 2011 in O.S. No.6 of 2003 and allow the revision.

For Petitioner : Mr.E.D. Sethupathi

For Respondents : Mr.V. Karthikeyan
for M/s.V. Nicholas
for R2 to R4

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 31.07.2012 in I.A. No.1214 of 2011 in O.S. No.6 of 2003 on the file of District Munsif Court at Tiruppur.

Brief facts leading to the filing of the instant Revision Petition are as follows :-

2. The petitioner is the first defendant in the suit O.S. No.6 of 2003 on the file of the District Munsif, Tiruppur. The respondents filed a suit O.S. No.6 of 2003 against the petitioner and other defendants seeking for partition of the suit schedule property. An ex-parte preliminary decree came to be passed against the petitioner / first defendant on 21.07.2008. The petitioner / first defendant filed an application viz. I.A. No.1214 of 2011 seeking to set aside the ex-parte preliminary decree dated 21.07.2008 passed against him in O.S. No.6 of 2003. A counter affidavit has also been filed by the respondents / plaintiffs in I.A. No.1214 of 2011. The reason given by the petitioner / first defendant for not defending the suit is that he was an illiterate person and was not informed about the ex-parte preliminary decree by his counsel. According to him, only when the respondents/ defendants sent a copy of the petition filed in support of I.A. 684 of 2010 from the respondents / defendants seeking to obtain a final decree, he came to know about the passing of the ex-parte preliminary decree, dated 21.07.2008.

3. The Trial Court dismissed I.A. No.1214 of 2011 in O.S. No.6 of 2003 filed by the petitioner on the ground that no sufficient reasons

have been given by the petitioner for condoning the delay of 421 days in filing an application to set aside the ex-parte preliminary decree.

4. The Trial Court has observed that the petitioner has not disclosed as to what steps he has taken against his counsel for the negligence in handling his case. The Trial Court has also observed that it is the duty of the litigant to be vigilant in his own case.

5. Aggrieved by the dismissal of I.A. No.1214 of 2011 in O.S. No.6 of 2003 on 31.07.2012, the instant Civil Revision Petition has been filed.

Submissions of the learned counsels:

6. Heard Mr.E.D. Sethupathi, learned counsel for the petitioner and Mr.V.Karthikeyan, learned counsel representing Mr.V. Nicholas, learned counsel on record for the respondents 2 to 4.

7. The learned counsel for the petitioner submits that subsequent to the passing of the preliminary decree on 21.07.2008 in O.S. No.6 of 2003, a final decree has also been passed on 20.07.2011.

8. The learned counsel for the respondent submits that no appeal or revision has been filed against the final decree, which was passed as early as in the year 2011. This fact is also not disputed by the learned counsel appearing for the petitioner.

ABDUL QUDDHOSE, J.

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9. This being the case, the final decree, dated 20.07.2011 having already attained finality, the instant revision filed before this Court challenging the rejection of the condone delay application filed by the petitioner to set aside the ex-parte preliminary decree has now become infructuous.

10. For the foregoing reasons there is no merit in this Civil Revision Petition, as the same has now become infructuous. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

17.06.2019

Index: Yes/ No

Internet: Yes/No

Speaking Order/Non-speaking Order

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To
The District Munsif,
Tirupur.

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