

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.2022 of 2017
and C.M.P.NO.9853 of 2017

1. M.Subramanian
2. S.Venkatachalam ... Petitioners

Vs.

S.Palanisamy (Died)
2.Perumayee
3.Rajendran
4.Sumathi
5.Kannagi
6.Balamurugan
[RR2 to 6 brought on record as Lr's of the deceased
sole respondent vide court order dated 13.02.2019
made in CMP.Nos.22147, 22148 22151/018 in
CRP.PD.No.2022/2017] ... Respondents

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India against the order passed in I.A.No.314 of 2016 in O.S.No.1247 of 2004 on the file of the II Additional District Munsiff, Salem dated 29.04.2017.

For Petitioners : Mr.C.K.M.Appaji
For Respondents : Mr.P.Jagadeesan

ORDER

This Civil Revision Petition is preferred against the order of dismissal of the petition filed under Order 9 Rule 7 of CPC.

2. The Trial Court has dismissed the petition on the ground that the petitioners are not entitled to lenient approach as they have not produced any medical certificate or sufficient reasons for setting aside the *exparte* order.

3. I have heard the submissions of both sides.

4. The case of the petitioners is that when the case was posted for cross examination of P.W.1, they could not appear as they were suffering from fever. Further, the father of the petitioners is very old and therefore, he could not appear before the Court. The petitioner was set *exparte* on 09.09.2016 and filed the petition on 07.10.2016, within a period of one month. The delay is not abnormal and the petitioner has adduced some reason for the same.

5. It is well settled that for setting aside the *exparte* order under Order 9 Rule 7 CPC, any reason is a good reason. The litigants shall not be shunned out of the proceedings on technical grounds. As observed by the Trial Court, pendency of the matter for over 13 years is a matter for concern. In such circumstances, the Court shall see to that the suits are disposed of in early date rather than keeping it pending.

6. Considering the facts and circumstances of the case, I am inclined to set aside the order passed in I.A.No.314 of 2016 in O.S.No.1247 of 2004 dated 29.04.2017 and accordingly, is set aside. The petitioners can participate in the future proceedings.

7. Considering the long pendency of the suit for over 13 years, a direction is given to the Trial Court to dispose of the same, within a period of three months from the date of receipt of a copy of this order. Learned counsel appearing for the parties before this Court would submit that the parties will cooperate with the Trial Court for speedy disposal. The said submission is recorded and the parties to the suit shall cooperate for early disposal of the suit.

8. The Civil Revision Petition is disposed of with the above observation and direction. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

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Index : Yes/No
Internet : Yes/No
bri/tk

To
The II Additional District Munsiff
Salem.

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