



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2019

CORAM

THE HONOURABLE MS.JUSTICE P.T.ASHA

C.R.P. (PD) (MD)No.2509 of 2011

1.Lakshmi Ammal
2.Ruckmani Ammal

... Petitioners/Petitioners/
Plaintiffs

Vs.

1.Ramasubbu Naicker
[Revision against 1st respondent is
dismissed vide Court order dated
04.11.2013]

2.Subbiah
3.Sundararaj
4.Thesammal
5.Subbu Ramammal

... Respondents/Respondents/
Defendants

PRAYER:- Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order passed in unnumbered I.A.No. of 2011 in O.S.No.71 of 2006 on the file of the learned District Munsif, Kovilpatti dated 29.09.2011.

For Petitioner : Mr.T.A.Ebenzer

For R-2 to R-5 : Mr.F.X.Eugene

ORDER

This civil revision petition has been filed challenging the order dated 29.09.2011 made in unnumbered I.A.No. - of 2011 in O.S.No.71 of 2006 on the file of the learned District Munsif, Kovilpatti, which application was filed by the revision petitioners to condone the delay of 333 days in filing the application to restore I.A.No.225 of 2010, which was dismissed for default on 28.06.2010, in view of the fact that the petitioners had failed to pay cost as directed by an order dated 04.06.2010.

2.The facts in brief are as follows:-

<https://hcservices.ecourts.gov.in/hcservices> The revision petitioners/plaintiffs had filed a suit for partition of their 1/3 share in the suit schedule property. The suit was dismissed for default on 06.06.2007. The



petitioners/plaintiffs had filed I.A.No.225 of 2010 to restore the suit to file. Though the application had filed on 03.08.2007, the same came to the numbered only in the year 2010. the petitioners were directed to serve notice on the respondents. Thereafter, by an order dated 04.06.2010 the learned District Munsif was pleased to allow the said application on payment of cost of Rs.300/-, to the respondents, on or before 14.06.2010 and the matter was directed to be listed on 15.06.2010.

3.On a perusal of the petition and order that was filed in I.A.No.225 of 2010, it is evident that when the matter was called on 15.06.2010, 17.06.2010 and 23.06.2010, the learned counsel for the petitioners was not present. Ultimately, the application was listed on 28.06.2010 and on the said date, the learned counsel for the respondents endorsed that he has not received the cost as directed by an order dated 04.06.2010. Therefore, the application was dismissed for default on the said date.

4.Thereafter, the petitioners filed an unnumbered interlocutory application, which is the subject matter of this revision, on 27.06.2011, nearly a year after the dismissal, seeking to condone the delay of 333 days in filing the petition to restore I.A.No.225 of 2010. The said application has been dismissed by the Court below without numbering the same as the Court found that the plaintiffs who have been given sufficient time has not complied with the order dated 04.06.2010 and even in the impugned petition sufficient reasons have not been given for not complying with the order dated 04.06.2010. Challenging the same, the revision petitioners are before this Court.

5.Heard the learned counsel on either side and perused the papers.

6.Nothing new was argued before this Court. The plaintiffs who had come forward with the suit for partition have not shown any interest in complying with the order of the Court. It is also seen that even when they had filed the present revision seeking to set aside the impugned order, they have not complied with the order dated 04.06.2010, nor have they tendered the costs. The conduct of the parties does not inspire confidence in the Court. Hence, I do not find any infirmity in the impugned order.

7.In the result, this Civil Revision Petition is dismissed. No costs.

Sd/-

Assistant Registrar ()

// True Copy //



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To

The District Munsif, Kovilpatti.

+1 CC to Mr.F.X.EUGENE, Advocate (SR-88972[F] dated 24/09/2019)

+1 CC to Mr.T.A.EBENEZER, Advocate (SR-89600[F] dated 26/09/2019)

C.R.P. (PD) (MD) No.2509 of 2011
24.09.2019

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