



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12.12.2019

C O R A M:

The HONOURABLE MR.JUSTICE T.RAJA

CRP. (MD) .Nos.347 and 348 of 2012

1.Chinnachamy
2.Vellaichamy
3.Palanichamy

... Petitioners/Petitioners/Defendants
in both CRPs

Vs.

1.Ramasamy
2.Rasumani
3.Kosandi
4.Andichamy
5.Minor Vellaichamy
S/o. Ramasamy,

(5th respondent rep. through
his father and natural guardian
who is first respondent)

... Respondents/Respondents/Plaintiffs
in both CRPs

Prayer in CRP.No.347/2012:Civil Revision Petition has been filed under Section 227 of Constitution of India to call for and set aside the fair and executable order dated 05.09.2011 in I.A.No.866 of 2010 in O.S.No.855 of 2006 on the file of Principal District Munsif Court, Dindigul.

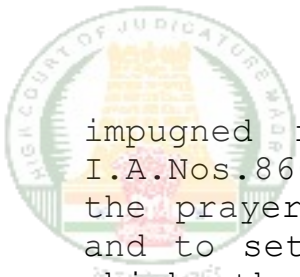
Prayer in CRP.No.348/2012:Civil Revision Petition has been filed under Section 227 of Constitution of India to call for and set aside the fair and executable order dated 05.09.2011 in I.A.No.867 of 2010 in O.S.No.855 of 2006 on the file of Principal District Munsif Court, Dindigul.

For Petitioner :Mr.H.Lakshmi Shankar

For respondents :Mr.P.Vairavasundaram for RR-1 to 5
(In both CRPs)

COMMON ORDER

These Civil Revision Petitions are directed against the
<https://hcservices.ecourts.gov.in/hcservices/>



impugned fair and decretal orders dated 05.09.2011 passed in I.A.Nos.866 and 867 of 2010 in O.S.No.855/2006, in and by which, the prayers of the petitioners to condone the delay of 813 days and to set aside the exparte decree have been rejected. Against which, the present Civil Revision Petitions have been filed.

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2.Learned counsel appearing for the petitioners has submitted that the petitioners' pangalis have filed a civil suit in O.S.No.855/2006 on 16.12.2006, seeking a decree for declaration of title to the suit property and a consequential injunction. After filing a written statement by the defendants/ petitioners herein, a reply statement was also filed by the plaintiffs/respondents herein. Thereafter, the matter was proceeded exparte against the petitioners.

3.The learned counsel appearing for the petitioners has submitted that on 13.06.2008, there was no instructions from the petitioners. Based on which, an exparte order was passed on 01.07.2008. Thereafter, the plaintiffs/respondents moved an execution petition in E.P.No.174 of 2009. After coming to know that exparte decree has been sought to be enforced through E.P.No.174/2009, the petitioners have moved an application to set aside the exparte decree. In the meanwhile, since the delay of 813 days has occurred, the trial court refused to condone the delay, overlooking the fact that if the exparte decree passed against the petitioners is not set aside, the plaintiffs would become owners of the entire property. Therefore, according to the petitioners, on high terms, the application seeking condonation of delay of 813 days could have been allowed. As it has been refused by the court below, the petitioners have come to this Court by way of filing these petitions.

4.Learned counsel appearing for the plaintiffs/respondents, opposing the prayer stated that there is a huge delay of 813 days in setting aside the exparte decree. When exparte decree was passed on 01.07.2008, the plaintiffs/respondents moved E.P.No.174/2009 before the Execution Court, the petitioners appeared and marked their presence in the said E.P on 07.01.2010 and an order was also passed on 22.12.2010 allowing the execution petition. Thereafter, they have filed the petition to set aside the exparte order. It clearly shows that they are only dragging on the proceedings and they have no bonafide grievance. From the conduct of the petitioners/defendants, it is also clear that they were not serious at any stage.

5.Therefore, this Court is of the view that the trial court has rightly dismissed the interlocutory applications filed by the petitioners. Further considering the huge delay, this Court is not inclined to entertain these Civil Revision Petitions.



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Accordingly, both the petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

vs

To.

1.The Principal District Munsif
Dindigul.

2.The Section Officer,
VR Section,
Madurai Bench of Madras High Court, Madurai-2 copies

+1 cc to Mr.H.Lakshmi Shankar , Advocate SR.No.104866

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