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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.03.2019**

CORAM :

THE HONOURABLE MRS.JUSTICE **S.RAMATHILAGAM**

CRP(MD) No.545 of 2019(PD)

Thangavel

... Petitioner/1st Petitioner /1st Appellant

vs.

1.Gomathi Ammal

2.Pavunu

3.Thirupathi

Respondents 1 to 3 /Respondents 1 to 3 /Respondents
Paulchamy Nadar(Died)

4.Palani

5.Kadarkarai

6.Selvam

Sornammal(Died)

Respondents 4 to 6 /Petitioners 2 to 4 /Appellants 2 to 4

PRAYER:- Civil Revision Petition filed the under Article 227 of the Constitution of India, to issue a direction for speedy disposal of the application in I.A.No.103 of 2012 in A.S.No.16 of 2002 on the file of the Sub Judge, Srivilliputhur and to pass orders as expeditiously as possible.

For Petitioner : Mr.M.Gnanagurunathan

ORDER

This Civil Revision Petition has been filed for speedy disposal of the application in I.A.No.103 of 2012 in A.S.No.16 of 2002 on the file of the learned Subordinate Judge, Srivilliputhur.

<https://hcservices.ecourts.gov.in/hcservices/>

2.Before the trial Court, the petitioner herein is the first appellant, the respondents 1 to 3 herein are the respondents and



the respondents 4 to 6 are the appellants 2 to 4. For the sake of convenience, the parties will be referred to as per their rank before the trial Court.

3.I.A.No.103 of 2012 was filed by the appellants. The suit in O.S.No.350 of 1997 was filed by the plaintiff for the relief of declaration and mandatory injunction and the same was decreed on 27.02.2002. Aggrieved by the said decree and judgment, the appellants preferred the appeal in A.S.No.16 of 2002 and the same was dismissed on 28.07.2004 since the appellants did not appear for the appeal proceedings and the said fact came to their knowledge on 10.07.2012 and hence, there is a delay of 2879 days caused in filing a petition to restore the appeal.

4.In the meanwhile, E.P.No.60 of 2013 was filed by the petitioner for the relief of declaration and mandatory injunction. The respondents in their counter statement contended that they filed an application to restore the appeal and the same is pending as I.A.No.104 of 2012 before the Sub Court, Srivilliputhur and the notice to the said application was served to the counsel for the petitioner and the petitioner is also aware about the pendency of the said application.

5.The petitioner in his counter statement contended that suppressing the petition filed to restore the appeal, the respondents filed the said E.P.,

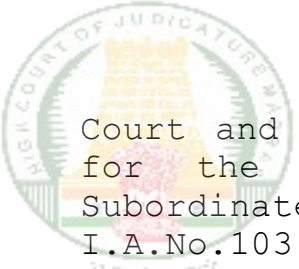
6.After considering the arguments on either side, the said E.P., was allowed by the trial Court on 28.09.2018 and the relief of declaration and mandatory injunction to remove the iron gate put up on the AD portion of the I item of the suit property mentioned in the rough sketch and wall is raised in the EF portion of the II item of the suit property mentioned in the rough sketch.

7.Heard the learned counsel for the petitioner herein.

8.The first appellant contended that while the proceedings pending in the said I.A., E.P., proceedings were taken by the respondents and the Executing Court has also passed an order for removal of the iron gate as well as the wall raised in the EF portion and the said constructions were also removed by the Executing Court.

9.Now, the learned counsel for the petitioner herein/first appellant would submit that I.A.No.103 of 2012 is still pending and the same has to be disposed of.

10.Considering the facts and circumstances of the case, this Court finds that the observation of the Executing Court is very much reasonable, which does not warrant any interference of this



Court and in view of the submission made by the learned counsel for the first appellant, this Court directs the learned Subordinate Judge, Srivilliputhur, to dispose of the case in I.A.No.103 of 2012 within a period of two weeks from the date of receipt of a copy of this order.

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11.This Civil Revision Petition is disposed of with the above direction. No costs.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

The Subordinate Judge,
Srivilliputhur.

+1 CC to M/s.M.GNANAGURUNATHAN, Advocate (SR-55067[F] dated 19/03/2019)

MM

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