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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.12.2014

CORAM

THE HONOURABLE MR.JUSTICE M.DURAI SWAMY

REVIEW APPLICATION(MD)No.120 of 2014

in

C.R.P(MD)No.462 of 2014

& M.P(MD)No.1 of 2014

Arockiamary

.. Petitioner/1st Respondent

Vs.

1.Savariammal .. 1st Respondent/Petitioner

2.Paul Rathinam

3.James

4.P.Dharmaraj

5.S.A.M.Mohammed Meera

.. Respondents 2 to 5/

Respondents 2 to 5

Prayer:- Review Application filed under Order XLVII, Rules 1 & 2 of the Code of Civil Procedure, 1908 read with Section 114 of the Code of Civil Procedure, 1908 to review the order, dated 07.03.2014 made in C.R.P(MD)No.462 of 2014 on the file of this Court and set aside the same.

Prayer in CRP(MD)(PD).No.462 of 2014: Petition filed under article 227 of the Constitution of India to direct the 1st Additional Subordinate Judge, Trichy to dispose of I.A.No.202/2009 in O.S.No.692/2002 within a specified time .

For Petitioner : Mr.M.Vallinayagam, SC
for Mr.J.Anandkumar

For R - 1 : Mr.K.P.Narayana Kumar

For RR 2 to 5 : No appearance

ORDER

The review application has been filed by the first respondent in the Civil Revision Petition to review the order, dated 07.03.2014 passed by this Court in the Civil Revision Petition(MD)No.462 of 2014.

2. Heard the learned counsel appearing for the review applicant and the learned counsel appearing for the first respondent.



3. The plaintiff in O.S.No.692 of 2002 on the file of the I-Additional Sub Court, Tiruchirappalli had filed the above Civil Revision Petition to direct the trial Court to dispose of the final decree application in I.A.No.202 of 2009 within a stipulated time.

4. This Court, by an order, dated 07.03.2014, directed the trial Court to dispose of the final decree application in I.A.No.202 of 2009 within a period of four months from the date of receipt of a copy of this order.

5. Now the first respondent, who is the first defendant in the suit, has filed the above review application to review the order passed by this Court on 07.03.2014 stating that the trial Court passed a preliminary decree for partition on 13.08.2008 and that the defendants filed an application in I.A.No.608 of 2008 to set aside the ex-parte decree.

6. Mr.M.Vallinayagam, learned Senior Counsel appearing for the review applicant submitted that the application in I.A.No.608 of 2008 was dismissed for default and that the defendants filed an application in I.A.No.204 of 2012 on 28.07.2010 to condone the delay of 802 days in filing the petition to restore the application in I.A.No.608 of 2008, which was dismissed for non-prosecution. The learned Senior Counsel further submitted that since this Court had directed the trial Court to dispose of the final decree application in I.A.No.202 of 2009 within four months, the trial Court is not taking up the said application for adjudication.

7. Since the application filed by the defendants to restore the application in I.A.No.608 of 2008 is pending, without expressing any opinion with regard to the merits of the case, I direct the Sub Judge, Tiruchirappalli to dispose of the application in I.A.No.204 of 2012 in O.S.No.692 of 2002 on merits and in accordance with law within a period of four weeks from the date of receipt of a copy of this order. In case, the trial Court allows the application in I.A.No.204 of 2012, then the trial court is to proceed with I.A.No.608 of 2009. If the trial court allows I.A.No.608 of 2009, then the trial Court has to proceed with the suit for partition, and in case, if the Court dismisses the application in I.A.No.204 of 2012, it shall proceed with the final decree application in I.A.No.202 of 2009 and dispose of the same on merits and in accordance with law within a period of three months from the date of disposal of the application in I.A.No.204 of 2012.



8. With these observations, the Review Application is disposed of. Consequently, connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

The 1st Additional Subordinate Judge, Trichy

+1cc to Mr.K.P.Narayanakumar, Advocate Sr.No. 68090

+1cc to Mr.J.ANANDKUMAR, Advocate Sr.No. 68526

ps

AA/09.01.2015/3p- 4c/

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