



WEB COPY

C.R.P(MD)No.1740 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

C.R.P(MD)No.1740 of 2019

and

CMP. (MD)No.8941 of 2019

1.Manickayee

2.Pichaimuthu

3.Poonkodi

...Petitioners / Respondents /
Plaintiffs

Vs.

Subramani

... Respondent / Petitioner /
1st Defendant

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, against the order dated 08.08.2019 made in I.A.No.1239 of 2018 in O.S.No.296 of 2012 on the file of the Additonal District Munsif, Karur.

For Petitioners

: Mr.R.Narayanan

For Respondent

: Mr.V.Balaji

O R D E R

This Civil Revision Petition has been filed challenging the order, dated 08.08.2019 passed in I.A.No.1239 of 2018 in O.S.No.296 of 2012 by the learned Additional District Munsif, Karur.

2.The said I.A.No.1239 of 2018 in O.S.No.296 of 2012 was filed by the respondent herein to set aside the exparte order and the same was allowed with a cost of Rs.250/-. Previously the respondent filed I.A.No.903 of 2018 for condonation of delay of 180 days in filing application to set aside the exparte order, that was also allowed subject to payment of Rs.300/- to other side. The said amount was paid.

3.It is the contention of the revision petitioners that the set aside application was allowed, however, while allowing the said application to set aside the exparte order, the Court below directed the respondent herein to pay the sum of Rs.250/- to the revision petitioner herein and in the event of non payment of Rs.250/-, the said I.A.No.1239 of 2018 in O.S.No.296 of 2012 shall stand dismissed. According to the revision petitioner, the cost has not been paid and instead of paying the said amount to the revision petitioner the respondent has paid the same to some other counsel.

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



4.The learned counsel for the respondent would contend that he has already paid the said amount and therefore, the question of non payment of cost does not arise.

5.Heard the learned counsel for the petitioner; the learned counsel for the respondent and perused the materials available on record.

6.Admittedly, the I.A.No.903 of 2018 was allowed and thereby the delay of 180 days in filing the set aside the exparte order was condoned on payment of Rs.300/-. According to the respondent, he has paid the said amount of Rs.300/-. Further, the application in I.A.No.1239 of 2018 in O.S.No.296 of 2012 was filed to set aside the exparte order dated 06.07.2019. The said application was also allowed on payment of Rs.250/-. According to the respondent, he has paid the said amount and complied with the order.

7.On the other hand, it is the contention of the revision petitioners that the respondent has not paid the sum of Rs.250/- as directed by the Court below and instead of paying the said amount to the revision petitioners, he has paid the same to some other counsel. However, this Court is of the view that all these aspect can be verified by the Court below whether the cost has been paid by the respondent as directed in the order dated 08.08.2019.

8.In paragraph No.5 of the order, the Court below has observed that in the event of non payment of the said cost, the application to set aside the exparte order filed in I.A.No.1239 of 2018 stand dismissed. Therefore, now the question is whether the cost has been paid on or before 16.08.2019. It is for the Court below to decide whether the cost has been paid or not. There is no need for this Court to interfere in the order passed by the Court below.

9.The learned counsel for the revision petitioner has contended that the present suit in O.S.No.296 of 2012 has been filed for the purpose of partition in the year 2012 and the same is pending for the past 7 years. The revision petitioner is aged about 77 years. Since the revision petitioner is a senior citizen and taking into consideration of the fact that the suit is pending for more than 7 years and in view of the Judicial Notification No.C-5 CAS/2007 Tamil Nadu Case Flow Management in Subordinate Courts/Rules 2007, the Court below ought to have disposed of the suit within two years, but on the other hand, it is pending for the past 7 years and therefore, this Court directed the Court below to dispose of the suit in O.S.No.296 of 2012 within a period of four months from the date of receipt of a copy of this order, without giving any further long extension of time.



10.This Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

WEB COPY

Sd/-

Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar(CS)

To

The Additonal District Munsif, Karur.

+1 CC to Mr.V.BALAJI, Advocate (SR-93940[F] dated 23/10/2019)

+1 CC to Mr.R.NARAYANAN, Advocate (SR-94434[F] dated 24/10/2019)

**Order made in
C.R.P(MD)No.1740 of 2019
23.10.2019**

VB(20.11.2019) 3P 4C