

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Civil Revision Petition(NPD) No. 3668 of 2012
and
MP.No. 1 of 2012

1. Murugesan

2. Suseela Ammal

... Petitioners

Vs

1. Karivaratha Gounder

2. Maragathammal

3. Vangammal (died)

4. Thanji Ammal

5. Unnamalai Ammal

6. Manonmani Ammal

7. Arunachala Gounder

... Respondents

Prayer : Civil Revision Petition filed under Section 115 of CPC against the order dated 21.06.2012 in I.A.No.967 of 2006 in O.S.No.156 of 2001 on the file of the Additional District Munsif, Thiruvannamalai.

For Petitioner : Mr. R. Dilli Kumar
For Respondents : Mr. Prithivi,
for Mr. S. Kaithamalai Kumaran,
for R1, R2 & R6

ORDER

The Civil Revision Petition has been filed to set aside the order passed by the learned Additional District Munsif, Thiruvannamalai in I.A.No.967 of 2006.

2. The respondents 1 and 2 herein filed a suit in O.S.No.156 of 2001 on the file of the Additional District Munsif Court, Thiruvannamalai. In the said suit, exparte decree was passed on 04.10.2001 due to non filing of the written statement. Therefore, the petitioners/defendants 2 and 3 have filed a petition under Section 5 of the Limitation Act to condone the delay of 1807 days in filing a petition to set aside the exparte decree and the trial Court vide order dated 21.06.2012 dismissed the said petition. Challenging the said, the petitioners are before this Court with this Civil Revision.

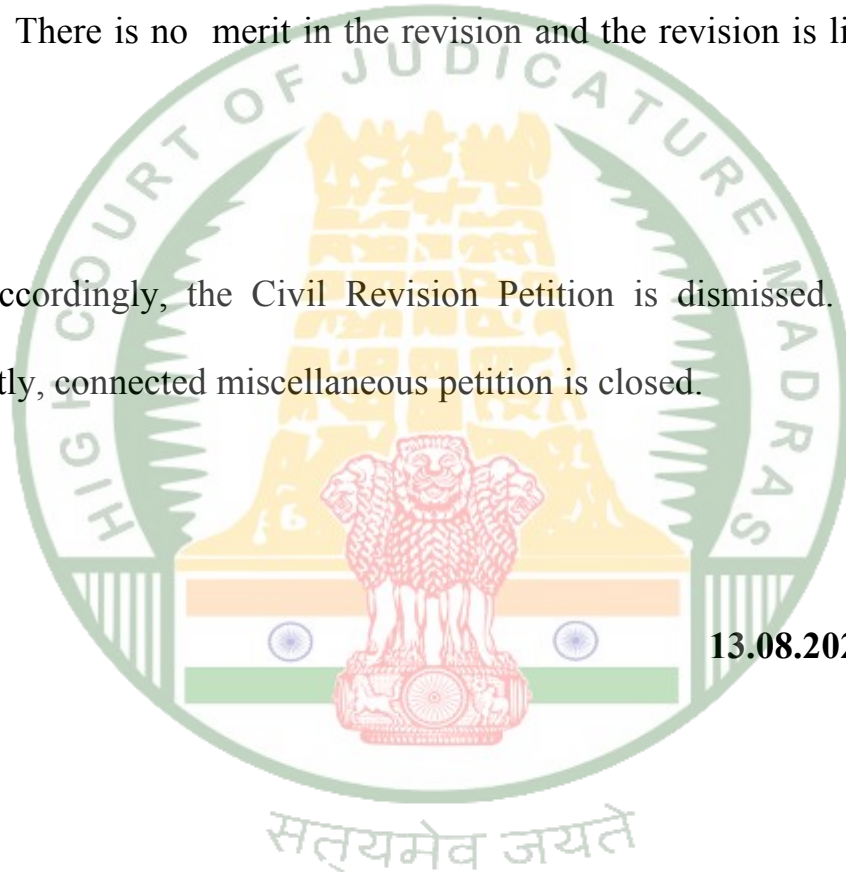
3. Heard both sides and perused the materials available on records carefully.

4. The respondents 1 to 3 herein filed a suit in O.S.No.156 of 2001 on the file of the Additional District Munsif, Tiruvannamalai on 26.04.2001 and the petitioners entered appearance through their counsel on 12.06.2001. After several hearing, the suit was listed on 04.10.2001 for filing written statement. Since the petitioners did not file written statement, they were called absent and set exparte and exparte decree was passed against them on 04.10.2001. Hence, the petitioners herein had filed a petition in I.A.No.967 of 2006 for condoning the delay of 1807 days in filing a petition to set aside the exparte decree and that petition was dismissed by the trial Judge.

5. The trial Court has clearly stated that the petitioners appeared through counsel on 12.06.2001. However, till 04.10.2001 though the case was adjourned on several times, they did not file written statement. Since written statement had not been filed, the petitioners were called absent and set exparte. The reason stated by the petitioners is that they have left to Chennai. Once the summons received and they engaged counsel, it is the duty of the petitioners to follow up the case and periodically, they should have contacted their counsel. Moreover, the reason given for condoning the delay of 1807 days are not sufficient and they have simply stated that they left to Chennai. In the meanwhile, the Revenue proceedings were initiated ,

patta was transferred in the name of the respective parties. Therefore, the reason stated in the affidavit for condoning the delay is not sufficient. Therefore, the trial Court rightly dismissed. Unless the trial Court exercised the discretion in arbitrary manner, this Court normally will not interfere with the matter. There is no merit in the revision and the revision is liable to be dismissed.

6. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.



13.08.2020

mrp

To

1. The Additional District Munsif Court, Thiruvannamalai.
2. The Section Officer, V.R. Section, High Court, Madras

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P.VELMURUGAN,J.

mrp



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