

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.12.2020

PRONOUNCED ON : 23 .12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.2805 of 2016

CMP.No.14257 of 2016

(Through Video Conferencing)

1. Marasamy
2. Boopathiraj
3. Madhappan
4. Nallammal
5. Sadaiyammal
6. Pappal
7. Ramamoorthy
8. Vasanthi
9. Munusamy
- 10.Samiathal

Petitioners

Vs

1. State of Tamil Nadu, by District Collector
Erode
2. The Special Tahsildar, Adi Dravida Welfare Department
Erode

3. The Tahsildar, Erode

Respondents

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, to set aside the fair and decreetal order, dated 22.07.2016, made in IA.No.219 of 2016 in the unnumbered Cross Appeal No.Nil of 2016 in AS.No.63 of 2015, by the II Additional District Judge, Erode.

For Petitioner : Mr.M.V.Venkata Seshan

For Respondent : Mr.D.S.Jaganathan, GP(CS)

ORDER

1. This Civil Revision Petition has been filed, to set aside the fair and decreetal order, dated 22.07.2016, made in IA.No.219 of 2016 in the unnumbered Cross Appeal No.Nil of 2016 in AS.No.63 of 2015, by the II Additional District Judge, Erode.
2. The facts of the case, in a nutshell, are that Plaintiffs in OS.No.211 of 2012 on the file of the District Munsif Court, Erode are the Petitioners and the Defendants are the Respondents. The suit was filed for declaration of title and permanent injunction. The suit was partly decreed, granting declaration of title alone, by the judgement and decree, dated 17.12.2012. As against the same, the Defendants have filed AS.No.63 of 2015. In the appeal, the Plaintiffs have filed the present application to condone the delay of 63 days in filing the cross appeal. Since the said application was dismissed by the impugned order, this Civil Revision Petition has been filed.
3. This court heard the learned counsel on either side and considered their submissions and also carefully perused the materials placed on record.
4. According to the Petitioners, the delay is neither wanton nor wilful and it has been explained satisfactorily by assigning valid reasons and without considering those aspects, the court below erred in dismissing the application.
5. Per contra, it is the stand of the Respondents that the delay has not been explained satisfactorily and no document was produced to substantiate the cause for the delay and considering those facts, the application was rightly

dismissed by the court below.

6. In this case, the suit is one for declaration and permanent injunction. The suit was decreed partly, granting declaration of title. The appeal was filed by the Respondents, against the grant of declaration in favour of the Plaintiffs. The cross appeal was filed by the plaintiffs. The delay is 63 days.
7. The present application was filed to condone the delay of 63 days in filing the cross appeal. The Respondents did not file any counter in the said application.
8. The defendants had filed the appeal and it was taken on file. The plaintiffs have also sought to file the cross appeal, with an application to condone the delay of 63 days. It would be appropriate to decide the claims of both the parties, on merits, after affording opportunity to both parties. Accordingly, in the interest of justice and in order to adjudicate the claim of both the parties, the present application may be allowed on payment of cost.
9. In fine, this Civil Revision Petition is allowed. No costs. Consequently, the connected MP is closed. The impugned order, dated 22.07.2016, made in IA.No.219 of 2016 in the unnumbered Cross Appeal No.Nil of 2016 in AS.No.63 of 2015, by the II Additional District Judge, Erode is set aside and the said IA is allowed on payment of cost of Rs.1,000/- (Rupees one thousand only) to the Taluk Level Legal Services Authority, within two weeks from the date of receipt of a copy of this order.

23.12.2020

CRP(NPD)No.2805 of 2016

A.A.NAKKIRAN, J.

Srcm

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Srcm

To

1. The II Additional District Judge, Erode

Pre-Delivery Order in
CRP(NPD)No.2805 of 2016



23.12.2020

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