



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.12.2020

CORAM :

THE HONOURABLE MRS.JUSTICE S.ANANTHI
C.R.P. (MD) Nos.1942 & 1943 of 2015 (NPD)
and M.P. (MD) No. 1 of 2015
in C.R.P. (MD) No. 1942 of 2015

M. Ramasamy

... Petitioner/Respondent/Plaintiff
in both CRPs.

vs.

1. Mallakkal

2. P. Selvaraj

...Respondents/Petitioners/Defendants
in both CRPs.

PRAYER in C.R.P. (MD) 1942 of 2015: Petition filed under Article 227 of Constitution of India, to set aside the order passed in I.A. No.51 of 2012 in O.S. No.438 of 2000, dated 29.04.2015 on the file of the Subordinate Court, Dindigul and thereby dismiss the petition.

PRAYER in C.R.P. (MD) 1943 of 2015: Petition filed under Article 227 of Constitution of India, to set aside the order passed in I.A. No.51 of 2012 in O.S. No.438 of 2000, dated 09.06.2015 on the file of the Subordinate Court, Dindigul and thereby dismiss the petition.

In both CRPs.

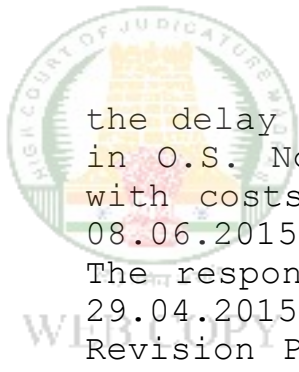
For Petitioner : Mr.S. Manohar

For Respondents : Mr.K.K. Ramakrishnan

COMMON ORDER

These petitions have been filed to set aside the order passed in I.A. No.51 of 2012 in O.S. No.438 of 2000, dated 29.04.2015 and 09.06.2015 on the file of the Subordinate Court, Dindigul and thereby dismiss the petition.

2. The learned counsel appearing for the revision petitioner would submit that the revision petitioner/plaintiff has filed a suit in O.S. No.438 of 2020 against the respondents/defendants herein on the file of the Subordinate Court, Dindigul. The respondents have appeared and written statement also filed and the suit was posted on 08.12.2003 for trial. Since the respondents herein have failed to appear on 12.12.2003 an exparte order was passed in favour of the revision petitioner herein. He would further submit that, after 2956 days, the respondents herein have filed a petition under Section 5 of the Limitation Act, to condone



the delay of 2956 days in filing a petition in I.A. No. 51 of 2012 in O.S. No. 438 of 2000 and the same was allowed on 29.04.2015 with costs of Rs.6,000/-and the same shall be paid on or before 08.06.2015 and the same was posted for compliance on 09.06.2015. The respondent have failed to pay the costs and the order, dated 29.04.2015 stands cancelled automatically. Hence, the Civil Revision Petitions have been filed to set aside the order, dated 29.04.2015 passed in I.A. No.51 of 2012 in O.S. No.438 of 2000, and 09.06.2015 on the file of the Subordinate Court, Dindigul.

3. The learned counsel appearing for the respondents would submit that the reason for the delay of 2956 days in filing the petition is that the second respondent herein was residing at Madurai and he has taken treatment for his illness and hence, he could not meet his counsel. He would further submit that, in the meantime an exparte order, dated 12.12.2003 was passed in favour of the revision petitioner herein. He would further submit that, after receiving Court notice only they came to know about the exparte decree.

4. Heard the learned counsel appearing for the revision petitioner and the learned counsel appearing for the respondents.

5. Considering the submission on either side, the second respondent has not produced any medical records to prove his illness. Eventhough, the respondents have received Court summons in the year 2010 in O.S. No.514 of 2010 they have filed a petition under Section 5 of the Limitation Act, to condone the delay of 2956 days in filing a petition in I.A. No. 51 of 2012 in O.S. No. 438 of 2000 after lapse of two years. They have not stated any proper reasons for delay in filing a petition in I.A. No.51 of 2012. Each and every day delay should be explained by the parties before the trial Court, but, the respondents have failed to prove their case through oral and documentary evidence for non-payment of costs imposed in I.A. No.51 of 2012. No paper reason for non-payment of costs.

6. In the result, the Civil Revision Petitions are allowed. No Costs. Consequently, connected miscellaneous petitions is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)



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To

- 1) The Subordinate Judge,
Dindigul.
- 2) The Section Officer-2 copies
V.R.Section,
Madurai Bench of Madras High Court,
Madurai.

Common Order made in
C.R.P. (MD) Nos.1942 & 1943
of 2015 (NPD)
11.12.2020

KMV (CO)
KM (18.12.2020) 3P 4C