



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.09.2020

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THE HON'BLE MR.JUSTICE **S.S.SUNDAR**

C.R.P. (PD) (MD)No.2883 of 2018

Jeyaraman : Petitioner / Petitioner / Appellant

.. Vs ..

Rathinam Pillai (Died)
Kasiraman Pillai (Died)
Seeni Naicker (Died)
1.Ponnuthayammal
2.Somu
3.Balakrishnan
4.Sathasivam
5.Sethu
6.Sundari
7.Kanagu
8.Chellammal

Chinnasamy

9.Kamalam
10.Dhanam
11.Soundari @ Soundaravalli
12.Aandal
13.Poongothai
14.Sumathi

: Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order, dated 02.07.2018 passed in I.A.No.30 of 2016 in unnumbered appeal by Principal Subordinate Court, Dindigul.

For Petitioner

: Mr.S.Anand Chandrasekar



ORDER

This Civil Revision Petition is preferred as against the order of learned Principal Subordinate Judge, Dindigul, in I.A.No.30 of 2016 in unnumbered appeal, dated 02.07.2018.

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2.The revision petitioner is the 3rd defendant in the suit in O.S.No.114 of 1982 on the file of the Subordinate Court, Dindigul. The suit in O.S.No.114 of 1982 was for partition of plaintiffs' 13/15 share of suit "A" and "B" schedule and for appointment of Advocate Commissioner to divide the suit schedule property by metes and bounds and for other consequential reliefs. The suit was decreed as prayed for in respect of suit 'A' schedule property and the suit in respect of "B" schedule property was dismissed. Aggrieved by the preliminary decree in the suit "A" schedule property is concerned, the third defendant preferred an appeal in A.S.No.250 of 1987. The said appeal was also dismissed and hence, the revision petitioner states that a Special Leave Petition is preferred and is pending before the Honourable Supreme Court.

3.Pursuant to the preliminary decree that was passed on 31.12.1986 in O.S.No.114 of 1982, a final decree application in I.A.No.51 of 2004 was filed on the file of the I Additional District Munsif Court, Dindigul. The final decree was also passed by order, dated 28.11.2006. As against the final decree, dated 28.11.2006, the third defendant preferred an appeal with a petition to condone the delay of 3392 days in I.A.No.30 of 2006. The petition filed under Section 5 of the Limitation Act to condone the delay 3392 days was dismissed by the Principal Subordinate Court, Dindigul. Aggrieved by the same, the above revision petition is filed.

4.This Court has considered the dates and events. The appeal was filed mainly on the ground that the further appeal as against the preliminary decree is pending before the Honourable Supreme Court. It is in the said circumstances, the learned Counsel for the revision petitioner submitted that subject to the outcome of the Special Leave Petition pending before the Honourable Supreme Court, this revision petition may be disposed of.

5.The revision petitioner, who is aggrieved by the final decree, has preferred an appeal suit with the delay of 3392 days. In case the preliminary decree is modified or set aside by the Honourable Supreme Court, the final decree will also go. If the preliminary is altered, the revision petitioners are entitled to seek appropriate relief, even if the petition to condone the delay is dismissed. Hence, giving liberty to the revision petitioner to workout his remedy to seek restitution or file necessary application in case the verdict of Honourable Supreme Court in the Special Leave Petition goes in favour of revision petitioner, this petition can be closed.



6.As a result, preserving liberty to the revision petitioner, as mentioned above, this Civil Revision Petition is closed. No costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

To

The Principal Subordinate Judge,
Dindigul.

+1 CC to M/s.SARVABHAUMAN ASSOCIATES, Advocate (SR-16804[F] dated 15/09/2020)

C.R.P. (PD) (MD)No.2883 of 2018
14.09.2020

cmr

SDS (22.09.2020) 3P-3C