

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.4368 of 2015
and M.P.No. 1 of 2015

Ravi

...Petitioner

Vs

Jovi @ Govindan (Deceased)

1.Chellammal

2.Pitchamuthu

3.Selvaraj

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Indian Constitution of India to set aside the fair and decretal order dated 08.09.2015 in I.A.No.1278 of 2013 in O.S.No.217 of 2008 on the file of the District Munsif Court, Athur.

For Petitioner : Mr.P.T.Rama Devi

For Respondents : Ms.K.Ponmani for
M/s Zeenath Begum

ORDER

This Civil Revision Petition is directed as against the fair and decretal order dated 08.09.2015 in I.A.No.1278 of 2013 in O.S.No.217 of 2008 on the file of the District Munsif Court, Athur, thereby dismissed the petition to set aside the condone delay of 592 days in setting aside the

exparte decree.

2.The respondents filed a suit as against the petitioner and others for partition and injunction in respect of the suit property on 01.07.2008. On receipt of notice in the suit, the petitioner appeared through his counsel, however, failed to file written statement. Therefore, he was set exparte and exparte decree was passed on 06.02.2012. Thereafter, the respondents filed a petition for final decree on 06.02.2012. In the said application, the Court below ordered notice on 04.08.2012 and on receipt of the same, the petitioner filed vakalat on 20.09.2012 in the final decree proceedings. Thereafter, the said vakalat was withdrawn by the counsel and another counsel filed his vakalat on behalf of the petitioner on 14.08.2013. After passing the preliminary decree the petitioner also entered into an agreement for sale with the 3rd party in respect of part of the suit property on 14.02.2012. The sale agreement was duly registered before the Registrar Office. After came to knowledge about the agreement for sale, the respondents issued legal notice on 15.05.2012 and the same was duly received by the petitioner on 17.05.2012. Therefore, the petitioner had fully knowledge about the exparte decree passed as against him. Even then, the

petitioner did not take any steps to file the petition to set aside the exparte decree passed against him. Further, that apart, the reasons stated in the affidavit filed in support of the condone delay petition are that the petitioner suffered with jaundice and thereafter he was recovered only in the year 2013. When the petitioner was able to appear before the Registrar Office and execute the agreement of sale in respect of part of the suit property and also appeared through his counsel, in the final decree application on 20.01.2012, the reason stated by the petitioner is completely false.

3. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or irregularity in the order dated 08.09.2015 in I.A.No.1278 of 2013 in O.S.No.217 of 2008 on the file of the District Munsif Court, Athur. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

WEB COPY

03.02.2021

Jer

G.K.ILANTHIRAIYAN.J,

Jer

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No

To
The District Munsif Court, Athur.



C.R.P.(N.P.D).No.4368 of 2015
and M.P.No.1 of 2015

WEB COPY

03.02.2021