



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).No.2743 of 2016
and C.M.P.Nos.14095 & 14096 of 2016

1.Subbulakshmi
2.Rajalakshmi

.. Petitioners

Vs.

S.Kavitha

.. Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of Constitution of India, by setting aside the order of return dated 18.12.2015 in unnumbered I.A.SR.No.3505 of 2013 in O.S.No.94 of 2013 on the file of the District Munsif Court, Nagapattinam.

For Petitioners : Mr.R.Y.George Williams

For Respondent : Mr.R.Prem Narayan

ORDER

This Civil Revision Petition is filed for setting aside the order of return dated 18.12.2015 in unnumbered I.A.SR.No.3505 of 2013 in O.S.No.94 of 2013 on the file of the District Munsif Court, Nagapattinam.



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2. Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondent and perused the entire materials on record.

3. The petitioners are defendants and respondent is the plaintiff in O.S.No.94 of 2013 on the file of the District Munsif Court, Nagapattinam. The respondent filed the said suit against the petitioners for permanent injunction restraining the petitioners from interfering with her possession and enjoyment of the suit property. The suit was filed on 12.04.2013. From the copy of the decree dated 30.04.2013 filed in the typed set of papers, it is seen that a memo has been filed by an Advocate representing the defendants/petitioners herein stating that the suit has been settled out of Court. The learned counsel appearing for the petitioners made an endorsement that he has no objection. Based on the memo and no objection, the learned Judge dismissed the suit accepting the memo and endorsement. The petitioners have filed the present unnumbered I.A.SR.No.3505 of 2013 to reopen the case alleging that they did not receive any summons from the Court and they have not engaged any Advocate to appear on their behalf and the respondent herein who is the plaintiff in the suit played fraud and filed



memo as if the petitioners received a sum of Rs.1,00,000/- and compromised the matter. The petitioners have elaborately given the details of earlier litigations initiated by the father of the respondent and dismissal of the suit in O.S.No.232 of 1983, First Appeal and Second Appeal. All the legal proceedings initiated by the father of the respondent with regard to the suit property ended in their favour. In view of earlier proceedings, there is no necessity for the petitioners to compromise the issue with the respondent. A fraud has been played on the Court and fraudulent decree has been obtained by the respondent and the petitioners must be given an opportunity to put forth their case and prayed for reopening the suit.

4.The learned Judge returned the application stating that the suit was dismissed as not pressed and no compromise decree was passed.

5.Against the said order of return dated 18.12.2015 in unnumbered I.A.SR.No.3505 of 2013 made in O.S.No.94 of 2013, the petitioners have come out the with the present Civil Revision Petition.



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6. From the materials available on record, it is seen that the respondent has filed the suit for permanent injunction on 12.04.2013 and within 18 days i.e., on 30.04.2013, the suit was dismissed as settled out of Court. According to the petitioners, the suit summon was not served on them and the respondent has given wrong address and played fraud on the Court as if the summons were served on the petitioners. It is the further case of the petitioners that they have not engaged any Advocate, not entered any compromise and not received any amount from the respondent. These allegations are serious in nature including forged signature of the petitioners as if they have signed vakalat and authorised an Advocate to file a memo. In view of serious allegations, the impugned order of the learned Judge returning the application filed by the petitioners is set aside. The petitioners are directed to re-present the application within three weeks from the date of receipt of a copy of this order. On filing the application, the learned Judge is directed to number the application if it is otherwise in order and hear the application after giving an opportunity to both the petitioners as well as respondent and pass orders on merits and in accordance with law. If the learned Judge comes to the conclusion that the allegations made by the petitioners are true, take appropriate action on the persons who have played



fraud on the Court including the Advocate who has filed vakalat on behalf of the petitioners in the lower Court by giving complaint to the Bar Council of Tamil Nadu.

7. With the above directions, this Civil Revision Petition is allowed. Consequently, the connected Miscellaneous Petitions are also closed. No costs.

30.11.2021

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Index : Yes / No

Internet : Yes / No

Note: The Registry is directed to return the original affidavit in I.A.SR.No.3505 of 2013 in O.S.No.94 of 2013 to the petitioners.

To

The District Munsif,
Nagapattinam.



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V.M.VELUMANI, J.

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