

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.3128 of 2016
and C.M.P.No.15885 of 2016

R.Loganathan (deceased)

1.Jayakumar

2.Rajkumar

... Petitioners/Defendants

Vs.

G.Natarajan

... Respondent/Plaintiff

Prayer: This Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, against the fair and decretal Order dated 23.06.2016 passed in I.A.No.55 of 2015 in O.S.No.66 of 2006 by the Subordinate Judge, Vaniyambadi.

For Petitioners : Mr.Saravana Kumar

For Respondent : No Appearance

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed against the Order of the learned Subordinate Judge, Vaniyambadi dated 23.06.2016 passed in I.A.No.55 of 2015 in O.S.No.166 of 2006, wherein, the petition filed for condoning the

delay of 1996 days in filing the petition to set aside the *exparte* decree was dismissed.

2. These petitioners were the 2nd and 3rd defendants in the suit.

3. The respondent/plaintiff has filed the suit for specific performance against these petitioners and their deceased father (1st defendant).

4. The learned counsel for the petitioners submitted that since the petitioners were at abroad, their father was taking care of the suit proceedings and after he fell ill, the continuity of the proceedings got disrupted. It is further submitted that subsequent to the death of their father, they forgot about the suit and only after receiving the notice from the Executing Court, they came to know about the *exparte* decree passed in the suit. The learned trial Judge has dismissed the petition by not accepting the reasons above stated.

5. It is observed by the learned trial Judge that the parties to the suit should be diligent enough to conduct the proceedings and no indulgence can be shown for their forgetfulness.

6. It is true that sometimes because of some untoward events in the family like ill health of the elders or any other extraneous circumstances, the parties may loose touch with the subject matter. But the delay caused on these accounts should be reasonable in order to get the acceptance of the Court. These petitioners have knocked the doors after causing an inordinate delay of 1996 days, by saying that they had forgotten the suit proceedings. Even the father of the petitioner was not alive, the property was very much in existence. As the legal heirs of their father, the petitioners alone had to manage the suit property. So the property itself could have served as a constant reminder about the pending litigation. If the petitioners did not choose to mind the litigation, they have to bear the consequence also.

7. It is true that in the suit specific performance, had the appellants contested the suit they could have got a decree on merits. But that alone cannot cure their supine indifference. By their careless attitude, they cannot make the other party to suffer indefinitely by tying them with the suit for years together. The learned trial Judge has correctly held that the finality in this matter has become inevitable and the reasons stated in the petition is not acceptable. Hence, I find no reason for interference in the Order passed by the learned Subordinate Judge.

R.N.MANJULA,J.

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In the result, this Civil Revision Petition is dismissed and the Order of the learned Subordinate Judge, Vaniyambadi dated 23.06.2016 in I.A.No.55 of 2015 in O.S.No.66 of 2006 is confirmed. No costs. Connected civil miscellaneous petition is closed.

08.07.2021

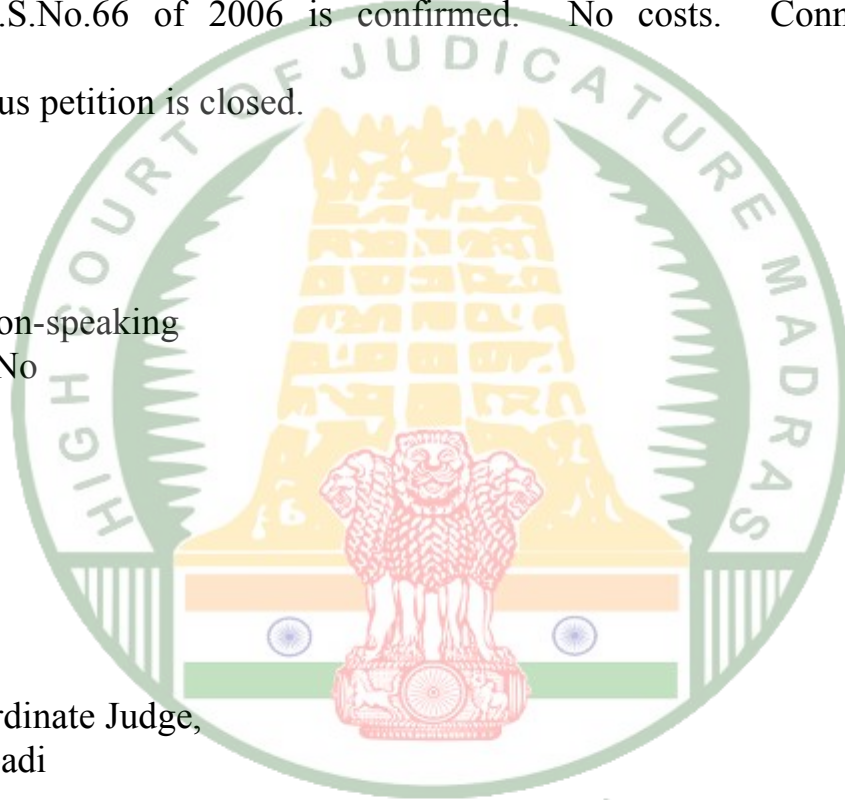
Speaking/Non-speaking
Index: Yes/No

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To

1.The Subordinate Judge,
Vaniyambadi

2.The Section Officer,
V.R.Section,
High Court, Madras.



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