

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(NPD) No. 3682 of 2016
and C.M.P.No.18691 of 2016

E.Mariappan

... Petitioner

Vs.

1.K.Chandrasekaran

2.P.Vembuli

3.M.Arumugam

... Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the **exparte** decree dated 03.11.2009 passed by the District Munsif-cum-Judicial Magistrate, Sriperumbudur in O.S.No.385 of 2008 and consequently all actions followed thereupon.

For Petitioner : Mr.J.Ravindran

For Respondents : Mr.K.Sathishkumar for R1
No appearance for R2 & R3

ORDER

The Civil Revision Petition is filed to set aside the **exparte** decree dated 03.11.2009 passed in O.S.No.385 of 2008 on the file of the District Munsif-cum- Judicial Magistrate, Sriperumbudur.

2. The petitioner is the defendant in the suit filed by the first respondent herein for declaration and injunction in respect of the suit schedule property. After filing the written statement, they did not appear before the Trial Court. Therefore, the petitioner and the other defendants were set exparte and the suit was decreed on 03.11.2009. Thereafter, the first respondent filed an Execution Petition in E.P.No.38 of 2011, in which also the petitioner and two other defendants received notice and remained absent before the Execution Court. Hence, they were set exparte and the Court ordered delivery of possession by an order dated 24.04.2014. In the mean while, the petitioner and two other defendants have filed a petition to set aside the exparte decree along with the condone delay petition in I.A.No.78 of 2010 and the same was dismissed for default on 07.07.2011. Thereafter, they did not take any steps to restore the petition filed to condone the delay in setting aside the exparte decree.

3. Pending the Execution Petition, the third defendant viz., third respondent herein filed a petition in I.A.No.432 of 2012 to condone the delay of 791 days in filing the petition to set aside the exparte decree and the same was also dismissed by an order dated 08.12.2013 for non-compliance of the

conditional order dated 25.04.2013. Subsequently, the third respondent also filed a petition in I.A.No.2049 of 2015 for extension of time for payment of cost and the same was also dismissed on 08.02.2016. The present Civil Revision Petition is filed to set aside the exparte decree dated 03.11.2009 passed in O.S.No.385 of 2008 without even challenging the order passed by the Court below. The Civil Revision Petition itself is not maintainable.

4. Therefore, this Court finds no illegality or infirmity in the orders passed by the Court below. Accordingly the C.R.P. is liable to be dismissed and is accordingly dismissed. The Execution Court is directed to proceed the Execution Petition in accordance with law. There shall be no order as to costs. Consequently connected Civil Miscellaneous Petition is closed.

सत्यमेव जयते

23.02.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order
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G.K.ILANTHIRAIYAN, J.

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To

1. The District Munsif-cum- Judicial Magistrate,
Sriperumbudur.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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