



C.R.P.(NPD).No.2601 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.(NPD).No.2601 of 2021

and

C.M.P.No.19340 of 2021

1.Raji

2.Muthu

.. Petitioners

Vs.

1.Sekar

2.Chinnaponnu

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decreetal order dated 24.08.2021 in I.A.No.1 of 2020 in O.S.No.219 of 2016 on the file of District Munsif Court, Omalur.

For Petitioners : Mr.R.Subramanian

For Respondents : Mr.M.Senthil Kumar for caveator



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ORDER

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Challenge in this Revision is to the order of the learned District Munsif, Omalur, dismissing the application for condonation of delay of 1061 days in filing the application, to set aside the *ex parte* decree.

2. The suit was one for declaration that the plaintiffs are the absolute owners of the suit property and for permanent injunction restraining the defendants from interfering with their peaceful possession and enjoyment of the suit property.

3. The suit was decreed *ex parte* on 28.11.2017 for non-filing of written statement, though the defendants were represented by counsel. Thereafter, the plaintiffs have filed Execution Petition in R.E.P.No.31 of 2018. Notice in the execution petition was served on the defendants. Despite such service, they did not take any steps to have the *ex parte* decree set aside. It is after 1061 days, the defendants came up with the instant application on 23.11.2020 seeking to set aside the *ex parte* decree. Only reason that was assigned was that their earlier counsel who promised to look after their interest has not done so.



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4. The reasons assigned for the delay in filing the application to set aside the *ex parte* decree are not convincing and the delay is enormous. The *ex parte* decree came to be passed on 28.11.2017 and the petitioners were served with the notice in execution petition in the year 2018. Despite such service, they did not take any steps to have the *ex parte* decree set aside.

5. I do not think that the petitioners can cover up their negligence by blaming the counsel. I find that there has been absolute carelessness on the part of the petitioners in seeking to set aside the *ex parte* decree. Therefore, I do not see any reason to interfere with the order of the learned trial Judge. The Revision fails and it is accordingly **dismissed**. No costs. Consequently, the connected miscellaneous petition is closed.

30.11.2021

dsa

Internet :Yes

Index : No

Speaking order

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R.SUBRAMANIAN, J.

dsa

To

The District Munsif, Omalur.

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