

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.3343 of 2017
and C.M.P.No.15548 of 2017

1.Jayaprakash
2.Perumal
3.Arumugam

...Petitioners

Vs.

Jayalakshmi

...Respondent

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the order and decretal order passed in I.A.No.296 of 2017 in O.S.No.351 of 2000 dated 19.07.2017 by the Additional District Munsif, Vandavasi, Thiruvannamalai District.

For Petitioners : Mr.V.R.Appaswamee

For Respondent : Mr.V.M.Venkatramana

ORDER

This Civil Revision Petition has been filed as against the order

and decretal order passed in I.A.No.296 of 2017 in O.S.No.351 of 2000 dated 19.07.2017 by the Additional District Munsif, Vandavasi, Thiruvannamalai District, thereby dismissed the petition to condone the delay of 1600 days in filing the petition to set aside the exparte decree.

2.The petitioners are the defendants and the respondent is the plaintiff. The respondent filed a suit for specific performance on the strength of the sale agreement dated 16.02.1996. According to the respondent she fixed the sale consideration as Rs.21,500/- in which the petitioners received a sum of Rs.15,000/- thereafter, the petitioner failed to register the sale deed. In fact all parent documents were handed over and the possession also handed over to the respondent herein. After receipt of the suit summons the petitioners failed to appear before the trial Court. They filed written statement in the year 2006 and failed to appear before the trial Court and as such they were set as exparte on 25.06.2010.

3.On the strength of the exparte decree dated 25.06.2010, the respondent filed the execution petition. In which, the petitioners were served with notice and they filed a petition in I.A.No.296 of 2017 to condone the delay of 1600 days in filing the petition to set aside the exparte

decree dated 25.06.2010.

4. On perusal of the affidavit filed in support of the condone delay petition would reveal that the petitioners 1 and 3 are out of their native place for bread winning and the 2nd petitioner was in hospital for treatment. They did not receive any notice from the counsel and therefore they did not aware about the exparte decree passed on 25.06.2010. Though there are three defendants in the main suit, no one has contacted their counsel and did not file the petition to set aside the exparte decree immediately.

5. Therefore, the reason stated in the affidavit are not sufficient and therefore, the Court below has rightly dismissed the petition and this Court also finds no infirmity or irregularity in the order dated 19.07.2017 passed in I.A.No.296 of 2017 in O.S.No.351 of 2000 on the file of the Additional District Munsif, Vandavasi, Thiruvannamalai District.

6. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

25.02.2021

Index: Yes/No

Speaking Order: Yes/No

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G.K.ILANTHIRAIYAN.J,

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To
The Additional District Munsif
Vandavasi
Thiruvannamalai District.



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