

COMMON ORDER

(Heard through video conferencing)

These Civil Revision Petitions have been filed by the petitioners, challenging the order of the learned II Additional District Judge, Chidambaram dated 28.08.2015 made in I.A.NoS.387 & 434 of 2015 in O.S.No.3 of 2008. In view of the interconnectivity of the issues involved in these petitions, a common order is passed.

2. This Civil revision petitioners are the petitioners in both the interlocutory applications and defendants 5 & 6 in the suit. The petitions in which the impugned orders were passed have been filed by the petitioners, to condone the delay of 1714 days in filing the petitions to set aside the ex-parte decree. Having not satisfied with the reasons stated by the petitioners to condone the above said huge delay of 1714 days, the learned trial Judge had dismissed the petitions.

3. This Court heard the submissions made by both side learned counsels and perused the materials available on records.

4. The learned counsel for the petitioners submitted that the *interse* parties to the dispute are brothers and sisters and the 2nd defendant, was

looking after the case on behalf of these petitioners also and he obtained some of their signatures in some papers; but later he joined with the respondents and failed to inform about the ex parte order passed in the suit. It is further submitted that the first petitioner was suffering from bad health and that had also caused the delay in filing the petition. It is further submitted that the learned counsel for the petitioner that the summons were not served on these petitioners and hence they remained ex parte.

5. The learned counsel for the respondents submitted that the petitioners were aware of the proceedings and they had chosen to file these petitions after a delay of many years just in order to drag on the proceedings.

6. The petitioners cannot deny their participation in the final decree proceedings by engaging a counsel on their behalf. It is submitted by the learned counsel for the respondents that having participated in the final decree proceedings in the year 2012 itself, they have falsely alleged that they did not know about the stage of the suit proceedings. It is further submitted that these petitioners have chosen to remain ex parte in the final decree proceedings also. The conduct of the petitioners would show that their only intention is just to drag the proceedings and cause hardship to the other parties to the suit.

7. From the averments of the petitioners itself, it is clear that they had the knowledge about the suit. The suit is filed against several persons. If a decree passed in such suits is set-aside at the instance of each of the defendant there will not be any end to the proceedings. Having known about the suit and engaged their brother who is the 2nd defendant to take care of the proceedings on their behalf also, the petitioners can not come now and say that they were not informed about the stage of the suit by their brother. If that is true, the silence of their brother about the suit for a long time would have prompted them to know about the suit through other defendants. In fact these petitioners filed vakalat through an advocate in his final decree proceedings and thereafter remained ex-parte in that proceedings also. It is not acceptable that the petitioners kept quiet for many years and thought about the suit all of a sudden. The learned judge is correct in holding that the reasons stated by the petitioners to condone the inordinate delay of many years is not acceptable. Under such circumstances the trial Court is right in dismissing the petitions. I find no reason to interference.

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In the result, these Civil Revision Petitions are **dismissed** and the Orders of the learned II Additional District Judge, Chidambaram, dated

28.08.2015 made in I.A.NoS.387 & 434 of 2015 in O.S.No.3 of 2008 are confirmed. No costs. Consequently, connected Civil Miscellaneous petitions are also closed.

06.07.2021
(RNMJ)

Speaking
Index : Yes/No
Internet: Yes/ No
jrs

To

- 1.The II Additional District Judge,
Chidambaram.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



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R.N.MANJULA,J.

jrs



Pre-delivery Common Orders in
C.R.P.(NPD).Nos.425 & 426 of 2017

06.07.2021

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