



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.03.2021

CORAM :

WEB COPY

THE HON'BLE MRS.JUSTICE J.NISHA BANU

C.R.P(MD)Nos.1439 and 1441 of 2019

CRP(MD) No.1439 of 2019:-

Samivel Thevar (Died)

1. S.Rajendran
2. S.Muruganantham
3. T.Dhanabal
4. T.Thesingh ...Revision Petitioners/Appellants/Defendants
vs.

Abdul Raheem ...Respondent/Respondent/Plaintiff

Prayer: Civil Revision Petition filed under Article 115 of Constitution of India, to set aside the fair and decreetal order dated 30.01.2019 passed in I.A.No.14 of 2018 in A.S.SR.No.557 of 2014 in O.S.No.114 of 2003 on the file of the Subordinate Court, Aranthangi, Pudukottai District.

CRP(MD) No.1441 of 2019:

Samivel Thevar (Died)

1. S.Rajendran
2. S.Muruganantham
3. T.Dhanabal
4. T.Thesingh ... Revision PetitionersAppellants/Defendants
vs.

1. Kasi
2. Selvi

3. The Tahsildar,
O/o. Tahsildar Office,
Aranthangi Taluk,
Pudukottai District.

4. The District Collector,
O/o. District Collectorate,
Pudukottai District. Respondents/Respondents/
Respondents/Plaintiffs

Prayer: Civil Revision Petition filed under Article 115 of Constitution of India, to set aside the fair and decreetal order dated 30.01.2019 passed in I.A.No.15 of 2018 in A.S.SR.No.768 of 2014 in O.S.No.114 of 2003 on the file of the Subordinate Court, Aranthangi, Pudukottai District.



2014 in O.S.No.100 of 2013 on the file of the Subordinate Court, Aranthangi, Pudukottai District.

For Petitioners : Mr.K.Balasundharam
(in both CRPs)
For Respondents : No appearance for R1 & R2
(in both CRPs) Mr.J.Gunaseelan Muthiah for R3 & R4

COMMON ORDER

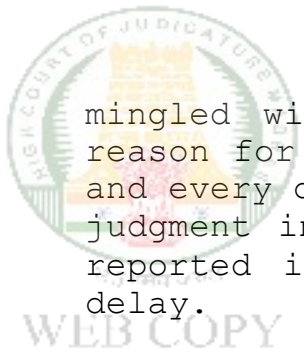
These Civil Revision Petitions have been filed to set aside the order dated 30.01.2019, made in I.A.Nos.14 and 15 of 2018 in A.S.SR.Nos.557 and 768 of 2014 in O.S.No.114 of 2003 and O.S.No.100 of 2013 on the file of the learned Subordinate Judge, Aranthangi, Pudukottai.

2.The revision petitioners are the defendants in both the suits in O.S.No.114 of 2003 and O.S.No.100 of 2013. The respondent in CRP (MD).No.1439 of 2019 filed O.S.No.114 of 2003 against the petitioners herein, for declaration and permanent injunction in respect of the suit property and the respondents 1 and 2 in CRP(MD). No.1441 of 2019 filed O.S.No.100 of 2003 against the petitioners for declaration and permanent injunction. Both the suits were decreed by judgments and decrees dated 30.06.2010 and 23.04.2010 respectively, against which, the revision petitioners in both petitions filed appeals in A.S.SR.Nos.557 and 768 of 2014 in O.S.No.114 of 2003 and O.S.No.100 of 2013, which were returned for rectifying certain defects. Thereafter, the appeals were re-presented with petitions in I.A.No.14 of 2018 and I.A.No.139 of 2014 to condone the delay of 1161 and 1254 days in re-presenting the appeals. The Court below declined to condone the delay holding that it is only to prolong the matter, against which, the present revisions are filed.

3.The learned counsel for the petitioners would state that the revision petitioners have got good case on merits and the Court below ought to have taken pragmatic view in considering the delay condonation petitions and instead of throwing the matter on technicalities, the Court below ought to have condoned the delay to enable the revision petitioners to contest the appeals on merits. Thus, he would pray to set aside the impugned orders.

4.Heard the learned counsel for the petitioners as well as the respondents 3 and 4.

5.Perusal of record shows that O.S.No.114 of 2003 and O.S.No.100 of 2013 have been filed for declaration and permanent injunction and both the suits were decreed on 30.06.2010 and 23.04.2010 respectively. Though appeals were filed, they were returned for certain defects and only after the long delay of 1161 and 1254 days respectively, the appeals were re-presented with the petitions merely stating that the case papers were



mingled with other papers. Such a reason is not an acceptable reason for such huge delay and the petitioners have to explain each and every day delay and therefore, by applying the principles in the judgment in **Esha Bhattejee vs. Managing Committee of Raghunathpur** reported in **2013 (5) CTC 547**, I am not inclined to condone the delay.

6. Accordingly, this Civil Revision Petitions are dismissed. No costs.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

bala/pkn
To

1.The Subordinate Judge,
Aranthangi, Pudukottai District.

2.The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court, Madurai.

+1cc to Mr.K.Srinivasaragavan, Advocate, Sr.No. 8488
+1cc to M/S.Spl Gp, Sr.No.8239

COMMON ORDER MADE IN
C.R.P(MD)Nos.1439 and 1441 of 2019
DATED : 01.03.2021

RK(26.05.2021) 3P 5C