



CRP.No.3734 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 06.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

CRP.No.3734 of 2016 and
CMP.No.18948 of 2016

- 1.Hema Kannan
- 2.Budhan Chinnaraj
- 3.T.G.Manian
- 4.R.Raghavan
- 5.Seshamma
- 6.Srinivasan
- 7.Saranathan
- 8.K.Meenakshi
- 9.Usha Sivasankar

... Petitioners

Vs.

- 1.Arul Mighu Bashayakara Adhi
Chennai Kesava Perumal Temple,
Rep. by its Executive Officer,
West Mambalam,
Chennai-33
- 2.Sundara Krishnamachari
- 3.A.Kalimuthu
R.Krishnan(died)
- 4.P.G.Gopalakrishnan
- 5.S.Jayaraman
- 6.Pratab Simha Raju
- 7.V.Raghavan
- 8.C.Anbarasi
S.Varadharanan(deceased)
- 9.S.V.Swaminathan

... Respondents

PRAYER: Civil Revision petition is filed under Section 115 of Code of Civil Procedure praying to set aside the fair order and decretal final order made in



CRP.No.3734 of 2016

IA.No.16341 of 2008 in IA.No.20238 of 2007 in OS.No.3556 of 1996 dated 05.10.2016 on the file of V Assistant, City Civil Court, Chennai by allowing the above civil revision petition.

For Petitioners : Mr.K.V.Ananthakrushnan
For Respondents
For R1 : Mr.M.Vijayakumar
For R2 to 9 : Given up

ORDER

This civil revision petition has been filed to set aside the fair order and decreetal final order made in IA.No.16341 of 2008 in IA.No.20238 of 2007 in OS.No.3556 of 1996 dated 05.10.2016 on the file of V Assistant, City Civil Court, Chennai, thereby allowing the petition to restore the condone delay petition in representation in IA.No.20238 of 2007.

2. The petitioners are the defendants in the suit filed by the first respondent herein for declaration, delivery of possession and damages in respect of the suit property situated at Mannar Reddy Street, T Nagar, Chennai-17. The suit was filed in the year 1986 before this Court. Thereafter it was transferred to the file of the City Civil Court and renumbered as OS.No.3556 of 1996. The petitioners filed their written statement. Thereafter the said suit was dismissed for default on 18.02.2005. The first respondent filed petition to restore the suit along with condone delay petition. Both were



CRP.No.3734 of 2016

under SR stage and returned for want of some corrections. Both petitions were not re-presented in time. Therefore, the first respondent filed application in IA.No.20238 of 2007 to condone the delay in re-presentation of both applications in IA.SR.Nos.20458 & 20459 of 2005. The said I.A.No.20238 of 2007 was dismissed for default on 22.08.2008. Hence, the first respondent filed IA.No.16341 of 2008 to restore the application to condone the delay in re-presentation of IA.SR.Nos.20458 & 20459 of 2005 and the same was allowed and aggrieved by the same, the present civil revision petition has been filed.

3. The learned counsel for the petitioner would submit that the suit is of the year 1986 and the first respondent has absolutely no case. The first respondent has no title over the property. Further, third party interest is also there and as such, without impleading the third parties, the suit is not at all maintainable. Therefore, he vehemently contended that no purpose would be served if the suit is restored.

4. Heard, Mr.K.V.Ananthakrushnan, the learned counsel for the petitioners and Mr.M.Vijayakumar, the learned counsel for the first respondent.



CRP.No.3734 of 2016

5. On perusal of records, revealed that the first respondent is the temple. The first respondent filed suit for declaration, delivery of vacant possession and damages in respect of the suit property. Only because of the change of administrators in the temple, they could not able to pursue their suit. Therefore, the court below rightly had given opportunity to restore the suit by allowing the petition to restore the petition filed to condone the delay in re-presentation of IA.SR.Nos.20458 & 20459 of 2005. Hence, this Court finds no infirmity or illegality in the order passed by the court below.

6. Accordingly, this civil revision petition is dismissed. The court below i.e. V Assistant City Civil Court, Chennai is directed to dispose of all the applications within a period of six weeks from the date of receipt of copy of this order and dispose of the main suit within a period of six months thereafter. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

06.12.2022

Index : Yes/No

Internet : Yes/No

Speaking order/non-speaking order

lok



WEB COPY



CRP.No.3734 of 2016



WEB COPY



CRP.No.3734 of 2016

G.K.ILANTHIRAIYAN, J.

lok

To
The V Assistant Judge,
City Civil Court, Chennai

CRP.No.3734 of 2016

06.12.2022