



C.R.P.(PD).No.2680 of 2021

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.02.2022

C O R A M

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(PD).No.2680 of 2021

Dharani Ammal (died)

2.Lalitha @ lali

3.H.Dhandapani

4.Viji

5.Jayanthi

... Petitioners /Defendants 1 to 4

S.Aranganathan

... Respondent/Plaintiff

Prayer: Petition filed under Article 227 of the Constitution of India to set aside the impugned Fair and Decreetal Order passed in I.A.No.172 of 2020 in R.O.S. No.09 of 2008 dated 08.10.2021 on the file of the Sub-Ordinate Judge, Arakkonam.

For Petitioner : Mr.S.Udaya Kumar

For Respondent : Mr.P.N.Balaji



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ORDER

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The defendants 1 to 5 are aggrieved by the dismissal of their petition seeking leave of the Court for direction to the respondent to receive Rs.10,000/- tendered by them or to permit them to deposit the same to the credit of the suit in ROS.No.9 of 2008. They have therefore filed the present Civil Revision Petition.

2.The facts preceding the filing of the above Civil Revision Petition are as follows:

The respondent herein had filed a suit ROS.No.9 of 2008 on the file of the Subordinate Judge, Ranipet, for specific performance of the agreement of sale deed dated 29.06.2001 by one Harikrishnan. The said Harikrishnan had died without executing the sale deed and therefore, his legal representatives were impleaded as defendants. Since they had not come forward to comply with the terms of the agreement, the respondent filed the present suit.



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3. The written statement was filed by the 3rd defendant refuting the claim of the respondent and stating that Harikrishnan would not have executed an agreement of sale with reference to the entire property as there were other sharers to the property as they are the joint family properties and not Harikrishnan's self acquired properties. They would further submit that the respondent herein, who is from the very same village is aware of the above fact and has deliberately come forward to create this agreement. Though the summons had been served on the defendants, they had not appeared before the Court and therefore they were set ex-parte and the ex-parte decree came to be passed on 10.04.2008.

4. The revision petitioners have come forward to file an application in I.A.No.277 of 2011 for condoning the delay of 1177 days in filing the application to set aside the ex-parte decree. This application came to be dismissed against which the defendants had



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filed CRP (NPD)No.1153 of 2012 on the file of this Court. By order dated 26.04.2018, the Civil Revision Petition was allowed on payment of cost of Rs.10,000/- by the revision petitioners to the respondent. Though the order was passed on 26.04.2018, the petitioners had not come forward to make the payment. Thereafter, the respondent had filed E.P.No.51 of 2020, for executing the sale deed in favour of the respondent on the basis of the decree ROS.No.9 of 2008. The petitioners on receiving the summons sent a letter to the respondent with the Demand Draft for Rs.10,000/- under cover of the letter dated 18.02.2020. The respondent refused to receive the said Demand Draft. Thereafter, the revision petitioners had filed I.A.No.172 of 2020 for the relief which has been extracted supra. In the affidavit filed in support of the said application, the reason given for the delay was that their previous counsel Mr.V.Masilamani had misplaced the original suit papers and the order dated 26.04.2018 in CRP(NPD)No.1153 of 2012 and thereafter he had passed away. He had not given any instructions about the said order to his juniors and



thereafter, the petitioners had tried to contact the office of the juniors of the said V.Masilamani, which was not successful and ultimately the counsel had conducted a thorough search in their office. They had traced the papers only in the first week of February 2020 and on 18.02.2020 they have forwarded the Demand Draft to the respondent who refused to receive the same. Therefore, the petitioners have come forward with the present application.

5. The respondent had resisted the above petition *inter alia* contending that the reasons given by the defendants for the delay is a blatantly false statement. The order had been passed by the Court in CRP(NPD).No.1153 of 2012, dated 26.04.2018 and only on 18.02.2020, the Demand Draft for Rs.10,000/- had been forwarded to the counsel for the respondent. Further, the learned counsel V.Masilamani had died on 11.01.2016 and this Court has passed the order two years later. Therefore, the question of the dead person misplacing the order copy would not arise as the order has been



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passed two years after the death. They ultimately prayed for dismissal of the application as learned Subordinate Judge, by order dated 08.10.2021 was pleased to dismiss the said petition and challenging the same, the revision petitioners is before this Court.

6. Heard the learned counsel for the revision petitioners and the learned counsel for the respondent and perused the papers.

7. Admittedly, the order directing the payment of cost of Rs.10,000/- had been passed by this Court on 26.04.2018 in CRP(NPD).No.1153 of 2012. The petitioners in their affidavit filed in support of the application for direction to the respondents to receive the sum of Rs.10,000/- has stated that they were unaware about the order dated 26.04.2018, since the counsel has passed away and he had not kept the other counsels apprised of the case. This statement on the face of it is a false statement as the said counsel has passed away on 11.01.2016 itself. Therefore, not only has the



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respondent not given sufficient reasons but on the contrary has given false reasons. This Court cannot come to the rescue of the party who comes to the Court with unclean hands and a blatantly false case. The order directing the payment of Rs.10,000/- as cost had been passed on 26.04.2018. The said conditional order has been passed in interlocutory application which has also been dismissed for default.

7. In these circumstances, the conduct of the revision petitioners throughout the proceedings shows their manifest indifference to the proceedings of the Court and their reluctance to participate in the proceedings. In these circumstances, I see no reason to interfere with the order passed by the Sub-Ordinate Judge, Arakkonam.

8. Accordingly, this Civil Revision Petition is dismissed.

No costs.

23.02.2022

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
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P.T. ASHA, J,

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To

The Sub-Ordinate Judge,
Arakkonam.

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