



C.R.P.No.4221 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

CORAM

THE HON'BLE Mr. JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4221 of 2022

and

C.M.P.No.22111 of 2022

1.Deivanayagi

2.P.Muruganandam

3.P.Elumalai

... Petitioners/Judgment Debtor/Defendants

Vs.

Mrs.Indira

... Respondent/Decree Holder/Plaintiff

Prayer:- Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the Fair Order dated 26.10.2022 in E.P.No.39 of 2012 in O.S.No.937 of 2005 on the file of Learned District Munsiff, Poonamalee by allowing the above Civil Revision Petition.

For Petitioner : Mr.A.Vijay Kumar



C.R.P.No.4221 of 2022

WEB COPY

ORDER

The Civil Revision Petition has been filed to set aside the Fair Order dated 26.10.2022 in E.P.No.39 of 2012 in O.S.No.937 of 2005 on the file of Learned District Munsiff, Poonamalee.

2. The revision petitioners are the defendants in O.S.No.937 of 2005. The respondent filed a suit for recovery of possession and an Ex-parte Decree was passed by the Trial Court on 10.11.2008. The respondent/ Decree Holder filed execution proceeding in E.P. No.39 of 2012, in April of 2012. After receiving the notice in the execution proceedings, the revision petitioners came to know that Ex-parte Decree was passed against them on 10.11.2008. The petitioners contacted their Advocate and the learned counsel entered into an appearance in the E.P. proceedings. Subsequently, an Interlocutory Application was filed to set aside the Ex-parte Decree dated 10.11.2008. The respondent/Decree Holder challenged the order passed by the Execution Court, dated 22.09.2017, in E.P.No.39 of 2012, in C.R.P.(NPD) No.67 of 2018. The High Court allowed the CRP and directed the Execution Court to consider the issues afresh and pass orders.



C.R.P.No.4221 of 2022

WEB COPY

Accordingly, the Execution Court reconsidered the issues and passed an order on 26.10.2022 in E.P.No.39 of 2012, stating that the respondent/Decree Holder is entitled for the delivery of the schedule mentioned property and the delivery is to be handed over by 19.12.2022.

3. There is a delay of 4,906 days in filing an Interlocutory Application to set aside the Ex-parte Decree dated 10.11.2008. The petition was filed to condone the delay of 4,906 days. This Court is of the considered opinion that uncondonable delay cannot be condoned. Only if the reasons are genuine and substantiated, which is acceptable to the Court, then alone, the long delays have to be condoned but not otherwise.

4. In the present case, the revision petitioners have not pursued the suit vigilantly. Ex-parte Decree was passed in the 2008. A petition to set aside the Ex-parte Decree was filed after a lapse of about 10 years and thus, this Court is not inclined to interfere with the order passed in the execution proceedings in E.P. No.39 of 2012.



C.R.P.No.4221 of 2022

S.M.SUBRAMANIAM.J.,

sha

5. The delivery already ordered by the Execution Court is to be implemented forthwith without causing any undue delay. Accordingly, the fair order dated 26.10.2022, passed in E.P. No.39 of 2012, in O.S. No.937 of 2005, stands confirmed and accordingly, the present Civil Revision Petition stands **dismissed**. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

sha

22.12.2022

Index: Yes
Internet: Yes
Speaking Order

To

1. District Munsiff, Poonamalee.

C.R.P.No.4221 of 2022