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C.R.P.No.4253 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.4253 of 2022

and

C.M.P.Nos.22338 & 22339 of 2022

1.Park Trust

A Public Charitable Trust

Represented by its Managing Trustee,

Dr.P.V.RAvi,

having registered office at

Old No.21, New No.36,

K.P.N. Colony 1st Street,

Tirupur – 641 601.

2.Dr.P.V.Ravi

3.Mr.T.R.Karthik

... Petitioners

Vs.

1.Mr.K.Manoharan

2. Ms.R.Anusha

... Respondents

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 16.12.2022 passed in I.A.No.1531 of 2022 in O.S.No.45 of 2021 on file of the Learned Principal District Court, Tirupur and consequently restore the suit in O.S.No.45 of 2021.



For Petitioners

: Mr.S.Ravindran
Senior Counsel
For Mr.V.Vignesh

For R1

: Mr.S.Mukunth
For M/s.Sarvabhauman Associates

ORDER

The Civil Revision Petition has been filed against the fair and decretal order dated 16.12.2022 passed in I.A.No.1531 of 2022 in O.S.No.45 of 2021.

2. The revision petitioners are the plaintiffs, instituted a Suit for declaration, to declare the Sale Deed executed as null and void.

3. The grievance of the revision petitioners is that the Interlocutory Application filed in I.A.No.1531 of 2022 seeking adjournment was dismissed and consequently, on the same day, the Suit itself was dismissed for non-prosecution. The adjournment petition was filed mainly on the ground that the plaintiffs filed a transfer petition before the High Court, which was disposed of and the copy of the order is yet to be received. However, the Principal District Court verified the order through the website and accordingly, dismissed the adjournment petition and also dismissed the Suit for non-prosecution.



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4. The learned Senior Counsel appearing on behalf of the petitioners state that the manner in which the order was passed in a hurried manner raises a doubt in the mind of the litigant and therefore, the order impugned is to be set aside. Even in the Transfer Petition filed by the revision petitioners / plaintiffs, the Learned Judge made certain unwarranted remarks, which resulted in filing of such Transfer Petition before the High Court. Thus, the order impugned in the present revision petition is to be set aside.

5. The learned counsel for the 1st respondent raised an objection by stating that the Suit was already posted for trial. While so, the revision petitioners have filed Interlocutory Application and the Learned Judge was insisting the parties to proceed with the trial and therefore, the allegations raised in the Transfer Petition, as well as in the Civil Revision Petition are incorrect. Instead of proceeding with the trial, the revision petitioners / plaintiffs made an attempt to protract the matter, which caused irritation in the mind of the Court and therefore, the same would not be a ground to transfer the case or to set aside the order passed in the adjournment petition.



6. Certain remarks made against the parties during the course of adjudication of cases, if not made intentionally, cannot be considered by the High Court for the purpose of considering the transfer of cases. If at all the parties are able to establish some motive or intentions behind such remarks, then alone it is to be considered for transferring of cases. In the present case, certain allegations are raised by the revision petitioners in the Transfer Petition. However, the revision petitioners had not established such grounds to the satisfaction of this Court and for the purpose of forming an opinion that the Judicial Officer concerned is prejudiced or acting against the interest of any one of the party to the litigation. While so, the Transfer Petition was disposed of by granting liberty to approach the District Court itself for the purpose of transferring the case, if necessary.

7. As far as the adjournment petitions are concerned, this Court has repeatedly emphasized that adjournment cannot be granted in a routine manner by a District Judiciary. Adjournment is an exemption and the case is to be proceeded with all circumstances and the non-cooperation of any one of the party is to be viewed seriously. Prolongation or protraction of litigation, at no circumstances be encouraged by the Courts and in such circumstances exemplary or maximum costs is to be imposed on the parties,



who are attempting to drag on the proceedings. When this Court has repeatedly held that the parties seeking unnecessary adjournments cannot be granted, the Trial Court in the present case, found that the reasons stated in the adjournment petition was incorrect, since the orders passed in the Transfer Petition filed before the High Court was uploaded in the High Court website and noting the same, the Trial Court dismissed the adjournment application.

8. However, this Court is of the considered opinion that at least two days time ought to have been granted for the purpose of proceeding with the trial. Contrarily, the Trial Court dismissed the Suit itself for non-prosecution on the same day, which seems to be improper. While dismissing the adjournment petition on the ground that the reasons stated by the petitioner was incorrect or false, an opportunity should have been given to the parties at least for one or two days enabling them to present the plaintiff for examination.

9. In the present case, the plaintiffs were not present, since the petition for adjournment was filed. The Trial Court ought to have taken into consideration that the plaintiffs were not present because the learned



counsel for the petitioners filed a petition for adjournment. Thus, the Suit ought not to have dismissed on non-prosecution on the same day, but further time for at least for two or three days should have been granted enabling the parties to make arrangements to proceed with the trial. Since the said opportunity was denied, this Court is inclined to consider the Civil Revision Petition.

10. It is brought to the notice of this Court that the revision petitioners have already filed an Interlocutory Application to restore the Suit on file enabling the plaintiffs to proceed with the trial. The said application was returned.

11. Accordingly, the rejection of I.A.No.1531 of 2022 for granting adjournment stands confirmed. However, the order dismissing the Suit for non-prosecution was set aside. Consequently, the Suit filed by the revision petitioner in O.S.No.45 of 2021 stands restored.

12. The Principal District Court, Tiruppur is directed to list the matter for trial immediately by fixing a date and parties at liberty to proceed with the trial by following the procedures as contemplated.



13. The learned counsel for the 1st respondent has no serious objection for restoration of the Suit and expressed his willingness of the defendants to proceed with the trial on merits and in accordance with law. It is made clear that the parties to the Suit shall not seek adjournments on flimsy grounds and they are directed to cooperate for early disposal of the Suit in the manner known to law.

14. With the abovesaid directions, this Civil Revision Petition stands allowed-in-part. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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Index : Yes
Speaking order

To

The Principal District Court,
Tiruppur.



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S.M.SUBRAMANIAM, J.

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