



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2022

CORAM

THE HONOURABLE MRS.JUSTICE S.ANANTHI

C.R.P. (MD) .Nos.1747 and 1748 of 2021

and

C.M.P. (MD) .No.9326 of 2021

WEB COPY

- 1.Smt.Saraswathi
- 2.L.Ramanujam
- 3.L.Venkatesan
- 4.L.Sampath
- 5.Smt.Seethalakshmi
- 6.Smt.Padma
- 7.Smt.Suganthi

... Revision Petitioners/
Petitioners/Defendants in both C.R.Ps.

Vs.

R.Krishna Moorthy

... Respondent/Respondent/Plaintiff
in both C.R.Ps.

PRAYER: Civil Revision Petitions are filed under Section 115 of C.P.C., against the fair and executable order dated 01.09.2021 passed in I.A.Nos.3 and 4 of 2021 in I.A.No.2 of 2019 in O.S.No.82 of 2019, on the file of the Subordinate Court, Lalgudi.

For Petitioners : Mr.S.Vijayashanthi
For Respondent : M/s.H.Lakshmi Shankar

C O M M O N O R D E R

The revision petitioners/defendants have filed these revision petitions to set aside the orders passed by the learned Subordinate Judge, Lalgudi in I.A.Nos.3 and 4 of 2021 in I.A.No.2 of 2019 in O.S.No.82 of 2019.

2. Originally, the respondent/plaintiff has filed a suit in O.S.No.82 of 2019 for partition. The revision petitioners/defendants after filing written statement set ex-parte. To set aside the ex-parte decree, the defendants filed the I.A.No.2 of 2019 within a time. But, I.A.No.2 of 2019 was transferred from Sub Court, Trichy to Sub Court, Lalgudi, without notice to the defendants. When the Advocate Commissioner issued the notice on 30.12.2020 the revision petitioners came to know the preliminary decree was passed in the suit.

3. When the petition to set aside the ex-parte decree filed by the revision petitioners/defendants, it is the duty of the petitioners to follow the I.A.No.2 of 2019. In I.A.No.2 of 2019, cost was ordered, but the same was not paid by the petitioners. Hence, the petition was dismissed. So, the defendants filed I.A.No.3



of 2021 to condone the delay of 350 days in filing enlargement petition and I.A.No.4 of 2021 was filed for enlargement of time to pay the cost ordered in I.A.No.2 of 2019. But no proper reasons have been stated in both I.As.

4. Already preliminary decree was passed and final decree petition also pending. As per the statement of second defendant, both the items of suit property were jointly allotted to plaintiff and his brother Lakshminarayanan. The defendants are the legal-heirs of Lakshminarayanan. Even on merit, there is no necessity for setting aside the preliminary decree.

5. The reasons stated in I.A.Nos.3 and 4 of 2021 are not acceptable and 350 days delay in filing the petition for enlargement of time to pay the cost. The revision petitioners/defendants have to file enlargement petition within a time stipulated in the order. Without any reason, the revision petitioners/defendants have filed these revision petitions. The revision petitioners/defendants can very well participate in the final decree proceedings.

6. With these observations, these Civil Revision Petitions are dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To
The Subordinate Judge,
Lalgudi.

+1 CC to M/s.H.LAKSHMI SHANKAR, Advocate (SR-8580[F]
dated 25/02/2022)

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24.02.2022

nsn(CO)

GC(09.03.2022) 2P 3C

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