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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2023

CORAM :

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.No.445 of 2020

Kaliyammal

.. Petitioner

Versus

1. Jayabalan
2. Veerabalan

.. Respondents

Prayer: This Civil Revision petition has been filed under Article 227 of the Constitution of India as against the fair and decreetal order of dismissal passed by the learned Additional District Munsif, Ulundurpet in I.A.No.20 of 2019 in O.S.No.253 of 2010 dated 16.07.2019.

For Petitioner : Mr. G. BalaManikandan

For Respondents : Mr. T. Gandhi



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ORDER

This Civil Revision petition has been filed to set aside the fair and decreetal order of dismissal passed by the learned Additional District Munsif, Ulundurpet in I.A.No.20 of 2019 in O.S.No.253 of 2010 dated 16.07.2019.

2. Brief facts relating to the case is set-out hereunder:

2. The case of the petitioner is that he has filed the O.S.No.253 of 2010 against the respondents seeking for declaration, declaring the petitioner/plaintiff as the absolute owner of the subject property and also sought for permanent injunction for restraining the respondents from interfering with the peaceful possession.

2.1. The further case of the petitioner is that as the petitioner could not appear and instruct her counsel to represent the case, hence, the said suit was dismissed for default on 03.03.2015. Thereafter, coming to know about the dismissal of the suit, he filed a restoration application. Since there was a delay of 248 days, the petitioner has also filed a petition for condonation of



to the Respondents. However, the restoration application was numbered in I.A.No.831 of 2017 and by an order dated 26.10.2018, the said application was allowed subject to payment of cost of Rs.500/- to the respondents/defendants, failing which the petition will be dismissed automatically without further reference to the Court. However, due to sudden illness, the petitioner has not paid the said amount and hence the Restoration application was dismissed for default.

2.3. Thereafter, the petitioner filed two applications, one application in I.A.No.19 of 2019 to restore the application which was earlier dismissed for default and the another application in I.A.No.20 of 2019 filed for Extension of time in I.A.No.831 of 2017 for payment of the cost of Rs.500/- However, both the applications was dismissed. Hence this petition.

3. Heard both sides and perused the materials available on record.

4. Admittedly the main O.S. has been fled seeking for a declaration declaring the petitioner/plaintiff as the absolute owner of the subject property and for permanent injunction restraining the respondents from interfering with the peaceful possession and the said suit has been dismissed



petitioner to defend his case by way of allowing the restoration petition, the petitioner has not turned up, which clearly reveals the fact that the Revision petitioner wants to drag on the proceedings and to proceed the case.

8. In view of the foregoing reasons, the prayer sought for by the Revision petitioner cannot be granted by this Court and this Civil Revision petition deserves to be dismissed. Accordingly this Civil Revision petition is dismissed. No costs.

01.03.2023

Index : Yes/No
Internet : Yes/No
smn

To

1. The Additional District Munsif, Ulundurpet

2. The Section Officer, V.R.Section,
High Court, Madras.



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V.BHAVANI SUBBAROYAN,J.

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