



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.02.2023

CORAM :

THE HON'BLE MR. JUSTICE SATHI KUMAR SUKUMARA KURUP

CRP.Nos.292, 293, 295 & 298 of 2023

P.K.Suseela Rani (Died)

1. Mrs.J.S.Nirmala Kumari

J.S.Surya Prakash (Died)

2. Mrs.Swarna Sundari ... Petitioners/Respondents/Defendants

all both Petitions

Vs.

Mr.Capt. G.N.Venkat Rajaram

... Respondent/Petitioner/Plaintiff

in all Petitions

COMMON PRAYER: Civil Revision Petitions filed under Article 227 of Constitution of India, to set aside the Fair and Decretal Order dated 05.12.2022 made in I.A.Nos. 1 & 2 of 2022 in O.S.No.6790 of 2021 and I.A.Nos.1 & 2 of 2022 in O.S.No.6789 of 2021 on the file of the learned XVIII Additional Judge, City Civil Court, Chennai.

For Petitioners

in all Petitions : Mr.V.Arun

Additional Advocate General

assisted by Mr.R.Kumaravel

Government Pleader

For Respondent



in all Petitions : Mr.P.Ravishankar Rao

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COMMON ORDER

These Petitions have been filed to set aside the Fair and Decreetal Order dated 05.12.2022 made in I.A.Nos. 1 & 2 of 2022 in O.S.No.6790 of 2021 and I.A.Nos.1 & 2 of 2022 in O.S.No.6789 of 2021 on the file of the learned XVIII Additional Judge, City Civil Court, Chennai.

2. When the case came up for hearing on an earlier occasion, the learned Counsel for the Revision Petitioner submitted that four Civil Revision Petitions had been filed against the Petition in I.A.Nos.1,1,2 and 2/2022 in O.S.No.6789 and 6790/2021. The Petition in I.A.No.1/2022 filed to condone the delay of 89 days to restore the Suit.

3. On an earlier occasion, when the case came up for hearing on 09.02.2023, the learned Counsel for the Revision Petitioners submitted that the property originally belonged to the father of the Defendants Suseela Rani/ mother of the Defendant. It was let out for lease to various tenants to collect rent from the tenant. Mr.G.N.Venkat Rajaram, who is a relative of the mother



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of the Petitioners, had obtained documents from the brother of the Defendants Suriyaprakash, who is addicted to Alcohol. Subsequently, died due to liver complications in the year 2020. With the help of the documents obtained from Surya Prakash, the deceased brother of the Defendants, the said G.N.Venkat Rajaram had created a document as though the Defendants' brother Surya Prakash and late mother Suseela Rani had executed agreement of sale and as though they had received money from him. Based on the forged document, he had filed C.S.No.890/2010 before the original side of this Court and another Suit in C.S.No.811/2012 for recovery of money from the mother as well as daughters and brothers/Defendants herein. The said relative had not collected rent from the tenants but caused a notice regarding the filing of the Suit. Therefore, the daughters had engaged a Counsel. At this stage, the case was referred to Mediation. In the Mediation, there was no possibility for amicable settlement. Therefore, the case was once again sent back to this Court. At that point, the pecuniary jurisdiction of City Civil Court was raised. Therefore, the Civil Suit in C.S.No.890/2010 and 811/2012 were withdrawn from the original side of this Court and transferred to the file of the City Civil Court in C.S.No.810/2010 was renumbered as O.S.No.6789/2021



and C.S.No.811/2012 was renumbered as O.S.No.6790/2021. The mother of the Defendants viz., Suseela Rani is not alive. Nirmala, the elder daughter is 65 years and another daughter Swarna Sundari was aged about 42 years and they had filed affidavit in this Petition. Surya Prakash died intestate. When the case came up for trial, the said relative G.N.Venkat Rajaram, who had instituted the Suit, had not appeared and the Suit was dismissed.

4. To restore the Suits, I.A.No.1/2022 filed under Section 5 of Limitation Act in O.S.Nos.6789/2021 and 6970/2022 were filed under Section 5 of Limitation Act to condone the delay of 89 days in filing the Petition under Order IX Rule 9 of Civil Procedure Code to restore the Suit in O.S.No.6789/2021. All these Petitions were filed as though the said G.N.Venkat Rajaram did not appear on a single day and there was a communication gap between him and his Counsel, blaming the Counsel in the Suit having been dismissed for non-prosecution. Also, the said G.N.Venkat Rajaram had filed Complaint before the Bar Council of Tamil Nadu and Puducherry, on the conduct of the Counsel. He had filed a Petition for change of Counsel.



WEB COPY 5. It is the contention of the learned Counsel for the Revision Petitioner/Defendants, the daughter of Suseela Rani that G.N.Venkat Rajaram never appeared in spite of repeated adjournments. Therefore, the learned Judge rightly dismissed the Suit. While so, he had filed an Application under Section 5 of Limitation Act and Order IX Rule 9 of Civil Procedure Code as though he had not appeared for a single day on the date of dismissal which was vehemently objected by the Defendants in the Suit. Still, the learned XVIII Additional Judge, City Civil Court allowed the Application on the ground that the lapses on the part of the Counsel, the party shall not suffer. Aggrieved by the same, the Defendants in the Suit in O.S.No.6790 of 2021/ Respondents in I.A.No.1/2022 had preferred the Civil Revision Petitions under Article 227 of Constitution of India seeking to set aside the Order passed by the learned XVIII Additional Judge, City Civil Court, Chennai dated 05.12.2022. The notice was ordered to the Respondent/Plaintiff returnable by two weeks. Accordingly, the case came up for hearing on 24.02.2023. On that day, the case did not reach. Therefore, the case was adjourned today.



WEB COPY 6. Today (28.02.2022), when the case came up for hearing, the learned Counsel for the Respondent/Plaintiff before the learned XVIII Additional Judge, City Civil Court, Chennai entered appearance and submitted that the Civil Revision Petition may be disposed of with the direction to the learned XVIII Additional Judge, City Civil Court, Chennai to dispose of the Suit within a time frame.

7. Instead of going into the merits of I.A.Nos.1,1,2 and 2 of 2022, on the basis of arguments or rival contentions by the learned Counsel for the Respondent for which the learned Counsel for the Petitioner fairly concedes, these Civil Revision Petitions are disposed of with a direction to the learned XVIII Additional Judge, City Civil Court, Chennai to conduct the trial/enquiry on day-to-day basis without any adjournments on request of the learned Counsel or the parties and dispose of both the Suits in O.S.Nos.6789 & 6790 of 2021 within a reasonable time of three months from the date of receipt of a copy of this Order. The Suit may be included in the cause list for the ensuing month.



In the result, these *Civil Revision Petitions are disposed of.* No costs.

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28.02.2023

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Index: Yes/No

Internet: Yes/No

To

1. The XVII Additional Judge,
City Civil Court, Chennai.
2. Section Officer,
V.R.Section,
High Court, Madras.



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SATHI KUMAR SUKUMARA KURUP, J.

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Pre-delivery Order made in
CRP.Nos.292, 293, 295 & 298 of 2023

28.02.2023



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