



C.R.P.No.1221 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.No.1221 of 2019

Ravi

.. Petitioner

Vs.

1.Anjalai

Elumalai (Died)

2.Rani

3.Vishalakshi

.. Respondents

PRAYER: This Civil Revision Petition is filed under 115 of Code of Civil Procedure, to set aside the Order and Decreetal, dated 13.11.2018 passed in I.A.No.1888/2017 in O.S.No.344 of 2008 by the Learned District Munsif, Madurantakkam.

For Petitioner : Mr.Varadharajan for N.Nagu Sah

For Respondents : Served, No Appearance



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ORDER

The second defendant in O.S.No.344 of 2008 is the petitioner. The said suit was filed for partition for 1/5th share of the property, which belong to one Elumalai. In the said suit, summons were sent to the Civil Revision Petitioner and it had been refused by him. Consequently, a preliminary decree came to be passed on 08.07.2010. To set aside the same, an application was filed in I.A.No.1888 of 2017. The ground on which the defendant wanted the decree to be set aside was that he was not aware of the suit or the final decree.

2. Taking note of the submission of Mr.Varadharajan, who appears for N.Nagu Sah, I requested the learned District Munsif to send the entire records to this Court. The records came before this Court.

3. I notice that the notices that were sent to the second defendant by the Counsel for the Plaintiff had been refused by him. A person who refuses a notice cannot take a plea that he was not aware of the suit proceedings. Consequently, the reason given by him to set aside the *ex-parte* decree is not acceptable. Apart from the Advocate notice, which



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was sent by registered post with acknowledgement due, the Court summons was also refused and returned with the following endorsement :

“D1 and D2 refused, hence not served. They refused to endorse, hence own endorsement, dated 25.11.2008”.

4. This document has been marked as Exhibit C2 in the interlocutory application which has been preferred to condone the delay. Since the petitioner has refused to receive the same, I am not able to accept the plea given by him.

5. Consequently, the Civil Revision Petition stands dismissed. No costs.

22.09.2023

Index:Yes/No
Speaking Order :Yes/No
Neutral Citation:Yes/No
MKN2/VEDA

To
The District Munsif, Madurantakkam.



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V.LAKSHMINARAYANAN,J.

MKN2/VEDA

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