



C.R.P.No. 4096 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2023

CORAM:

THE HONOURABLE Mrs. JUSTICE T.V.THAMILSELVI

C.R.P.No. 4096 of 2023

and

C.M.P.No.25031 of 2023

Kandasamy (died)

1.Venkatachalam
2.Perumayee

.. Petitioners

Vs

Ganesan (died)

1.Thilagavathi
2.Minor. Jeevendran

.. Respondents

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the fair and decreetal orders dated 16.06.2022 passed in I.A.No.6 of 2021 in I.A.No.1 of 2019 in I.A.No.144 of 2018 in I.A.No.1085 of 2012 in I.A.No.520 of 2010 in O.S.No.92 of 2010 on the file of District Munsif Court, Sankari.

For Petitioner : Mr. P. Jagadeesan



WEB COPY



C.R.P.No. 4096 of 2023

ORDER

This Civil Revision Petition is filed challenging the impugned order dated 16.06.2022 passed in passed in I.A.No.6 of 2021 in I.A.No.1 of 2019 in I.A.No.144 of 2018 in I.A.No.1085 of 2012 in I.A.No.520 of 2010 in O.S.No.92 of 2010 on the file of District Munsif Court, Sankari, the defendants have preferred this revision.

2. The respondents / plaintiffs filed a suit for partition in the year 2010 in O.S.No.92 of 2010. The revision petitioners are the defendants in the suit. The respondents herein filed I.A.No.520 of 2010 for passing final decree. In view of the fact that the deceased first plaintiff executed a settlement deed on 23.01.2003, the respondents herein filed I.A.No.1085 of 2017 for passing supplementray decree, the same was allowed ex pare on 03.10.2012. To set aside the ex parte order, as there was a delay, the petitioners filed I.A.No.144 of 2018 to condone the delay in filing the petition. That application was dismissed for default on 29.08.2018 as they have not given proper notice to the plaintiffs. To restore the same, the



C.R.P.No. 4096 of 2023

petitioners herein have filed an application in I.A.No.1 of 2019 that also dismissed for default. To restore the said I.A.No.1 of 2019 the revision petitioners taken steps but there was a delay of 41 days to represent the said application. The petitioners filed I.A.No. 6 of 2021 to condone the delay of 41 days. That application was dismissed by the trial Judge holding that they have not approached the Court with clean hands as well as in order to drag on the proceedings they have filed this application.

3. Aggrieved by the said finding, the defendants / petitioners herein filed this revision.

4. The learned counsel for the revision petitioner submits that the delay caused on the side of his counsel was neither wilful nor wanton.

5. Considering the fact that from the year 2010 onwards the plaintiffs approached the Court for relief of partition. All these days the defendants have not cooperating for the trial proceeding and they going on filing the applications one by one and now the original plaintiff was died and his



C.R.P.No. 4096 of 2023

widow wife and minor son was following the suit proceedings as a plaintiffs. In such circumstances, the defendants already filed an application to set aside the ex parte decree that application was also not been prosecuted properly. Therefore, the reason assigned by the petitioner as such is though not acceptable, but on considering the fact that the suit is pending from the year 2010 and to give quietus to the trial proceeding, this Court is inclined to set aside the applications with a direction to the revision petitioners to cooperate for the trial proceeding and the trial Judge is directed to dispose all the applications as well as suit proceeding within three months from the date of receipt of copy of this order without giving unnecessary adjournments to the defendants. Furthermore, on seeing the applications filed on the side of the revision petitioners, this Court is inclined to set aside the I.A.No.6 of 2021 on payment of cost of Rs.5,000/- to the plaintiffs, within two weeks from the date of receipt of copy of this order.



C.R.P.No. 4096 of 2023

WEB COPY 6. In the result, this Civil Revision Petition is disposed of.

Consequently, connected miscellaneous petition is closed. No costs.

21.11.2023

Index :Yes/No

Neutral Citation :Yes/No

AT

To

The District Munsif Court, Sankari.



WEB COPY



C.R.P.No. 4096 of 2023

T.V.THAMILSELVI, J.

AT

C.R.P.No. 4096 of 2023 and
C.M.P.No.25031 of 2023

21.11.2023