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C.R.P.No.2180 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.02.2023

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.No.2180 of 2019
and C.M.P.No.14076 of 2019

1. Sarojini
2. A.Mohan
Nagalakshmi (died)
(Unmarried died on
06.10.2018 after the date of the
Impugned order)

3. Jeyalakshmi
4. Arumugam @ Kiran

.. Petitioners

Vs.

1. Lingammal
2. C.S.Senthil Kumar
3. C.S.Sharmilarani
4. C.S.Ramakrishnan
5. C.S.Ravichandran
6. C.S.Vijayalakshmi
7. C.S.Velliyangiri
8. Leelavathi (died)
9. R.Premkumar
10. R.Valli
11. R.Sundar
12. C.A.Velliyingiri (died)
13. C.A.Arumugam
14. Shanthi



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15. Saravanakumaar

16. Uma Maheswari

17. Bhuvaneswari

(Respondents 14 to 17
brought on record as LR's of the
deceased R-8 vide
Court order dated 03.08.2022
made in CMP Nos.11289,
11280 and 11285 of 2022
in CRP.No.2180 of 2019)

18. Santhamani

19. Parameswari

20. Rani

(Respondents 18 to 20
brought on record as LR's of the
deceased R-12 vide
Court order dated 03.08.2022
made in CMP.Nos.11290 and
11291 of 2022 in
CRP.No.2180 of 2019)

.. Respondents

Prayer:- Civil Revision Petition filed under Article 227 of Constitution of India to set aside the fair and decretal order dated 20.09.2018 made in I.A.No.329 of 2018 in O.S.No.607 of 2012 on the file of the 1st Additional District Court, Coimbatore.

For Petitioners : Mr.Krishna Kumar

for M/s.Sarvabhauman Associates

For Respondents

R1 to R7, R9 to R11,

R14 to R17,

R18 to R20 : Mr.L.Mouli

R8, R12 : Died (steps taken)

R13 : Died (steps due)



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ORDER

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This Civil Revision Petition has been filed as against the fair and decreetal order dated 20.09.2018 made in I.A.No.329 of 2018 in O.S.No.607 of 2012 on the file of the 1st Additional District Court, Coimbatore, thereby dismissing the petition to condone the delay in filing the petition to set aside the exparte decree.

2. The petitioners are the defendants 1 to 6 in the suit filed by the respondents 1 to 13 herein for partition. On receipt of the suit summons, the petitioners appeared before the Trial Court and also filed their written statement. However, thereafter they failed to appear before the Trial Court. Therefore, they were set exparte and an exparte decree was passed on 06.01.2014. In pursuant to the exparte decree, the respondents 1 to 13 filed a petition for final decree in I.A.No.260 of 2014. Even in the final decree application, the petitioners, after receipt of the notice, failed to appear before the Trial Court. Hence, it was decreed and in order to take possession, the respondents 1 to 13 herein also filed an execution petition. On receipt of the notice on the execution petition, the petitioners



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filed a petition to set aside the exparte decree with a delay of 1584 days.

3. A perusal of the affidavit filed in support of the condone delay petition revealed that all the petitioners had fallen ill and they are undergoing treatment for a long period, not only in Tamil Nadu but also in Kerala. It is curious to note that all the petitioners ie., four persons suffering illness at the same time and all went to Kerala for treatment. It is unbelievable and the petitioners failed to state sufficient cause for the huge delay of 1584 days in filing a petition to set aside the exparte decree. Further, the second defendant died and in order to implead his son as a party filed an application in I.A.No.513 of 2016. Pending said application, the fourth defendant came before the Court and undertake to represent on behalf of the son of the second respondent, since he is a mentally retarded person. Even then, no one appeared before the Trial Court and as such all the petitioners were set exparte. That apart, the respondents 1 to 6 are three sons and three daughters and the petitioners are another one son's clan. Therefore, if at all the condone delay petition is allowed, no purpose would be served.



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4. Therefore, the Courts below rightly dismissed the petition to condone the delay and this Court finds no infirmity or illegality in the order passed by the Court below and this revision is liable to be dismissed.

5. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected Miscellaneous petition is closed. No costs.

10.02.2023

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

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G.K.ILANTHIRAIYAN,J.

mn

To

The 1st Additional District Court, Coimbatore.

C.R.P.No.2180 of 2019
and C.M.P.No.14076 of 2019

10.02.2023