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CRP (PD) Nos.3113 to 3120 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on	16.06.2023
Pronounced on	28.07.2023

CORAM:

**THE HONOURABLE MRS.JUSTICE K.GOVINDARAJAN
THILAKAVADI**

CRP (PD) Nos.3113 to 3120 of 2016
and
C.M.P.Nos.15836 to 15843 of 2016

CRP (PD) No.3113 of 2016

1.A.Paramasivam

2.P.Dilli Babu

Vs.

... Petitioners

1.Sunny Srichand

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20078 of 2014 in O.S.No.262 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3114 of 2016



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1.A.Paramasivam

2.P.Dilli Babu

... Petitioners

Vs.

1.D.Parsaram

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20079 of 2014 in O.S.No.263 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3115 of 2016

1.A.Paramasivam

2.P.Dilli Babu

... Petitioners

Vs.

1.P.Srichand

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20080 of 2014 in



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O.S.No.264 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3116 of 2016

1.A.Paramasivam

2.P.Dilli Babu

... Petitioners

Vs.

1.P.Srichand

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20081 of 2014 in O.S.No.266 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3117 of 2016

1.A.Paramasivam

2.P.Dilli Babu

... Petitioners

Vs.

1.B.Ashok Kumar

2.D.Prabhu



3.D.Dhamodaran

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... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20082 of 2014 in O.S.No.267 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3118 of 2016

1.A.Paramsivam

2.P.Dilli Babu

... Petitioners

Vs.

1.B.Ashok Kumar

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20083 of 2014 in O.S.No.269 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3119 of 2016

1.A.Paramsivam

2.P.Dilli Babu

... Petitioners

Vs.



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1.V.S.Chhabria

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20084 of 2014 in O.S.No.271 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.

CRP (PD) No.3120 of 2016

1.A.Paramsivam

2.P.Dilli Babu

... Petitioners

Vs.

1.P.Srichand

2.D.Prabhu

3.D.Dhamodaran

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure seeking to call for the records made in I.A.No.20085 of 2014 in O.S.No.272 of 2014, dated 14.06.2016 on the file of VII Assistant City Civil Court, Chennai and set aside the same.



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For Petitioners : Mr.S.Senthil Nathan

For R1 : Mr.T.Srikanth
(in all petitions)

ORDER

These revisions are preferred against the orders made in I.A.Nos.20078 to 20085 of 2014, in O.S.Nos.262 to 264 and 266 to 272 of 2014,dated 14.06.2016, on the file of VII Assistant City Civil Court, Chennai.

Facts:-

2. The petitioners/defendants 1 and 2 are the revision petitioners herein. The first respondent/plaintiff in all the petitions filed the suits in O.S.Nos.262 to 264 and 266 to 272 of 2014 for recovery of money borrowed by the petitioners/defendants 1 and 2. The petitioners/defendants 1 and 2 were set *ex parte* on 21.02.2014 for non-appearance, against which, the petitioners/defendants 1 and 2 filed the applications under Section 5 of the Limitation Act to condone the delay of 270 in filing the petitions to set aside the *ex parte* decree made in O.S.Nos.262 to 264 and 266 to 272 of 2014 , dated 21.02.2014. The petitioners/defendants 1 & 2 in the said petitions have stated that the instruments



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filed in the above suits were fabricated and the first respondent/plaintiff in all the petitions obtained an *ex parte* decree by playing fraud upon the Court.

3. On the side of the first respondent/plaintiff in all the petitions, it is submitted that the contention made by the petitioners/defendants 1 & 2 was resisted in the counter affidavit on the ground that having borrowed money and having executed the suit promissory note in favour of the first respondent/plaintiff in all the petitions falsely allege that the documents are fabricated for the purpose of the case. In order to deny the legal claim made by the first respondent/plaintiff in all the petitions, wantonly allowed the suits to be decreed *ex parte*. The trial Court after considering the above facts rightly dismissed the applications filed by the petitioners/ defendants 1 & 2, which calls for no interference by this Court.

4. The learned counsel for the first respondent/plaintiff in all the petitions would submit that the case was referred for settlement before mediation and due to non-co-operation of the petitioners/defendants 1 & 2 and their counsel, no amicable settlement was reached before the mediation. It would only go to show the *mala fide* intention of the petitioners/defendants 1 & 2 to prolong the



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matter without paying the amount borrowed by the petitioners/defendants 1 & 2 from the first respondent/plaintiff in all the petitions.

5. I have considered the above submissions of the learned counsel for the respective parties.

6. These revisions are preferred by the petitioners/defendants 1 & 2 against the orders passed in Section 5 application by the Court below. The learned counsel for the first respondent/plaintiff in all the petitions has forcibly argued that the petitioners/defendants 1 & 2 have been grossly negligent in the prosecution of the case. The petitioners have filed the petitions to condone the delay of 270 days in filing the petition to set aside the *ex parte* decree dated 21.02.2014. The reason assigned by the petitioners is that they were not aware of the case proceedings and they came to know about the *ex parte* decree only on 09.12.2014. The learned Trial Judge in the impugned orders has stated that on perusal of case records, it was found that the petitioners have received summons in the above suits as on 11.02.2014 and 12.02.2014 and therefore, the contention of the petitioners herein that they have not received any summons in the above



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suits and were not aware of the case proceedings cannot be accepted.

7. Moreover, in the condone delay petitions the petitioners failed to show good cause and sufficient cause for his non-appearance. On perusal of the records, it is seen that the applications filed by the petitioners herein in the condone delay petitions is absolutely vague with bald averments. The day-to-day delay was not explained by the petitioners herein. Since the petitioners failed to make out sufficient cause for the delay, the trial Court has rightly rejected the petitions filed by the petitioners herein, by the impugned orders. Accordingly, these Civil Revision Petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

28.07.2023

Index : Yes/No
Internet : Yes
cp/vsn



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K.GOVINDARAJAN THILAKAVADI

cp/vsn

To

The V Additional Principal Family Judge,
Chennai.

Pre-delivery order made in
CRP (PD) Nos.3113 to 3120 of 2016

28.07.2023