



CRP Nos.513 and 514 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN

CRP Nos.513 and 514 of 2016
and CMP Nos.2615 and 2616 of 2016

A.B.Govardan

...Petitioner in
both CRPs.

Vs

1. N.Maheshbabu

...1st Respondent in
CRP.513/2016

1. N.Rameshbabu

...1st Respondent in
CRP.514/2016

2. A.B.Rajaram

3. R.Vanaja

4. P.C.Balakrishna Reddiar

...Respondents 2 to 4
in both CRPs.

PRAYER: Civil Revision Petitions filed under Section 115 of CPC against the order dated 12.10.2015 made in I.A.Nos.13 and 15 of 2009 in O.S.Nos.82 and 83 of 2004 on the file of Court of Principal District Judge, Thiruvanamalai.



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For Petitioner
in both CRPs. : Ms.G.Sumithra

For Respondents
in both CRPs. : Mr.R.Sathishkumar
for R.1
: R.2 and R.3 - not ready in notice
: R.4 died

COMMON ORDER

The plaintiff is the revision petitioner. The fourth defendant has filed applications in I.A.Nos.13 of 2009 (CRP No.513 of 2016) and 15 of 2009 (CRP No.514 of 2016) to condone the delay of 1426 days in filing the applications under Order 9 Rule 13 of Civil Procedure Code.

2. The suits in O.S.No.189 of 2003 (CRP No.513 of 2016) and O.S.No.190 of 2003 (CRP No.514 of 2016) were filed before the Subordinate Court, Arani. Subsequently, they were transferred to District Court, Thiruvannamalai and renumbered as O.S.Nos.82 of 2004 (CRP No.513 of 2016) and 83 of 2004 (CRP No.514 of 2016). The fourth defendant/first respondent herein did not have the notice of such transfer. The suit ended in an exparte decree. To set aside the same, the defendants filed applications under Order 9 Rule 13 of Civil Procedure Code and



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Section 5 of the Limitation Act. After receipt of the counter from the plaintiff/civil revision petitioner, the learned Judge has entered factual finding that the fourth defendant/first respondent herein did not know the transfer of the case and hence they did not appear before the court and on that ground, the delay was condoned and the interlocutory applications were allowed.

3. Challenging the same, the plaintiff has come up with the present civil revision petitions on the ground that no sufficient cause has been shown for the inordinate delay. I am unable to agree with the submission. When a party has not been served with notice, he cannot be found fault with for not appearing before the Court. Failure to serve notice is “sufficient cause” to condone the delay.

4. Considering the fact that the suits are of the year 2003, I am inclined to direct the suits to be taken up for disposal subject to the condition the respondents/defendants depositing the suit cost of Rs.1,12,673/- (in respect of O.S.No.82 of 2004) (CRP No.513 of 2016)



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V.LAKSHMINARAYANAN,J.

sr

and Rs.84,742/- (in respect of O.S.No.83 of 2004) (CRP No.514 of 2016). The said deposit shall be made on or before 18.08.2023.

5. On such payment, the applications to set aside the exparte decree will be taken up and allowed and the suits shall be disposed of within a period of six months from the date on which the applications under Order 9 Rule 13 are allowed.

6. With the above observation, both the civil revision petitions are partly allowed. No costs. Consequently, connected miscellaneous petitions are closed.

07.07.2023

Index:Yes/No

Speaking order/Non-speaking order

sr

To

The Principal District Judge, Tiruvannamalai.

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