



C.R.P.No.3167 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2023

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.No.3167 of 2019

and

CMP No.20653 of 2019

1. Sundaramurthy

2. Prasath

....

Petitioners

Vs

1. Santhi

2. Padmavathi

3. Sundari

4. Sampoorname

5. Murugesan

6. J.Raj Narayan Shukla

....

Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of Code of Civil Procedure to set aside the fair and decretal order dated 03.07.2019 in I.A.No.712 of 2018 in O.S.No.29 of 2015 on the file of the learned District Munsif, Thiruvottiyur.

For Petitioners

: Mr.M.Velmurugan

For R1, R4 to R6

: Mr.Praveen Alexander

For R2 & R3

: Not ready in notice

ORDER



C.R.P.No.3167 of 2019

This Civil Revision Petition has been filed as against the fair and decreetal order dated 03.07.2019 in I.A.No.712 of 2018 in O.S.No.29 of 2015 on the file of the District Munsif, Thiruvottiyur, thereby dismissing the petition to condone the delay of 409 days in filing the petition to restore the suit.

2. The petitioners are the plaintiffs and the respondents are the defendants in the suit filed by the petitioners for declaration declaring that the settlement deed executed in favour of the respondents 1 to 5 dated 05.02.2014 as null and void. He also prayed for declaration declaring the sale deed executed by the respondents dated 20.02.2015 in favour of the sixth respondent as null and void. The respondents 1 to 5 also filed a suit for partition in O.S.No.28 of 2016 before the same Court and it is pending.

3. When both the suits were pending, there was settlement talks between the parties and therefore, the petitioners were under impression that the matter will be settled amicably. Hence, the petitioners did not pursue the suit. Therefore, the said suit was dismissed for default. Thereafter, they came to know that no amicable settlement had been arrived at so far between the parties. Admittedly, the respondents 1 to 5 filed a suit for partition and it is pending before the



C.R.P.No.3167 of 2019

same Court in O.S.No.28 of 2016 . Therefore, no prejudice would be caused if the suit filed by the petitioner is restored the suit. However, for the inconvenience caused to the respondents 1 to 5 herein, they have to be compensated with cost.

4. In view of the above, the order dated 03.07.2019 in I.A.No.712 of 2018 in O.S.No.29 of 2015 on the file of the District Munsif, Thiruvottiyur, is hereby set aside. Accordingly, this Civil Revision Petition stands allowed on condition that the petitioner shall pay a sum of Rs.5,000/- as cost to the respondents 1 to 5 on or before 20.03.2023, failing which, the order passed by this Court shall stand automatically cancelled. On such payment, the Trial Court is directed to restore the suit and conduct trial in O.S.No.28 of 2016 and dispose of the same within a period of six months from the date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed. No costs.

27.02.2023

Index:Yes/No

Internet:Yes/No

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Note : Issue order copy on 03.03.2023

G.K.ILANTHIRAIYAN, J.



C.R.P.No.3167 of 2019

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To
The District Munsif,
Thiruvottiyur.

C.R.P.No.3167 of 2019
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