



C.R.P.(NPD)No.2830 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(NPD)No.2830 of 2019
and C.M.P.No.18524 of 2019

1. Saraswathi
2. Jegadheeswaran
3. Dhandapani .. Petitioners

Vs.

Arulmigu Pandeewara Swamy Temple
Represented by its Fit Person
Karumapuram Village
Thiruchengode Taluk
Namakkal District. .. Respondent

PRAYER: Civil Revision Petition is filed under Article 227 of the Constitution of India against the fair and decretal order dated 12.06.2019 made in I.A.No.464 of 2017 in O.S.No.148 of 2014 on the file of the Principal District Court, Namakkal.



C.R.P.(NPD)No.2830 of 2019

For Petitioners : Mr. V.Srikanth

For Respondent : Mr.N.Subramanian

ORDER

The civil revision petitioners are the defendants and the respondent is the plaintiff. The suit is filed for declaration of title and for recovery of possession. The suit had been presented on 17.07.2014. In the said suit, the legal heirs of the deceased defendant/Natarajan took out an application in I.A.No.464 of 2017 to condone the delay of 110 days in setting aside the exparte decree. The said application was dismissed after receipt of a counter from the respondent.

2. One crucial factor, which goes in favour of the respondent is that the suit had been dismissed for default on 27.01.2016 and the defendant Natarajan passed away on 19.04.2016. In order to restore the suit, an appeal was filed before this Court in C.M.A.No.1696 of 2016, which came to be allowed and the suit was restored. Pursuant to the restoration of the suit, the defendants remained exparte and on coming to know of



C.R.P.(NPD)No.2830 of 2019

the pendency of the suit, immediately they have filed an application for condonation of the delay. The learned trial Judge did not find any sufficient cause and dismissed the application.

3. Learned counsel for the respondent submitted that the delay is excessive and every day's delay has not been explained. He says no cause much less sufficient cause has been shown in the proceedings.

4. Heard Mr. V.Srikanth, learned counsel for the petitioners and Mr.N.Subramanian, learned counsel for the respondent. I have carefully gone through the records.

5. The legal heirs were never put on notice about the pendency of the suit. In fact, the suit had been dismissed for default on 27.01.2016 and it had been restored, pursuant to the order of this Court. On the date on which, C.M.A.No.1696 of 2016 was allowed, the sole defendant Natarajan was not alive. Nonetheless, I do not want to go into the merits



C.R.P.(NPD)No.2830 of 2019

of the case or otherwise on the restoration of the suit. The reason being though the appeal has been allowed against a dead person, much water has flown under the bridge. Pursuant to the order passed in the appeal, the suit was restored and also decreed exparte.

6. When the legal heirs were not put on notice of the proceedings and in a case, where the vital rights relating to the immovable properties are involved, I feel, an opportunity can be granted to the legal representatives to contest the suit, on payment of heavy costs. Accordingly, on the previous occasion, I informed Mr.V.Srikanth, that a cost of Rs.25,000/- will be imposed as a condition for condonation of delay of 110 days. The learned counsel took time to get instructions from his client. Today, he has come to the Court along with a demand draft of Rs.25,000/-, dated 04.08.2023, drawn on State Bank of India favouring the respondent.

7. I feel that, in addition to the payment of costs, other conditions must be imposed namely,



C.R.P.(NPD)No.2830 of 2019

WEB COPY

(i) The legal representatives should file a written statement within a period of four weeks from today i.e., on or before 08.09.2023.

(ii) In case, a written statement is not filed on or before 08.09.2023, the Civil Revision Petition will stand dismissed.

(iii) If a written statement is filed on or before 08.09.2023, the Court below is requested to take up an application filed under Order IX Rule 13 of C.P.C. and allow the same. It shall frame issues and dispose of the suit within a period of eight months from today, in any event, on or before 30.04.2024.

8. The Civil Revision Petition stands allowed on the above terms.

No costs. Consequently, connected Miscellaneous Petition is closed.

08.08.2023

Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No

kj

5/6



WEB COPY



C.R.P.(NPD)No.2830 of 2019

V.LAKSHMINARAYANAN,J.

Kj

To

The Principal District Judge, Namakkal.

C.R.P.(NPD)No.2830 of 2019
and C.M.P.No.18524 of 2019

08.08.2023

6/6