



C.R.P. No.3837 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MRS. JUSTICE T.V.THAMILSELVI

C.R.P.No.3837 of 2023
and
C.M.P.No. 23739 of 2023

1. Sulochana
2. V.Premkumar

... Petitioners

Versus

1. N.Bhaskaran
2. N.Lakshmanan
3. N.Ramesh

A.Vijayakumar (deceased)

... Respondents

PRAYER : Civil Revision Petition is filed under Art. 227 of Constitution of India, praying to set aside the fair and decreetal order passed by the Subordinate Judge's Court at Udthagamandalam in I.A.No.1 of 2023 in O.S.No.222 of 2015 dated 01.07.2023.



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For Petitioners : Mr.Thangavadhanabalakrishnan

For Respondents : Mr.J.Franklin

ORDER

Challenging the impugned order passed in I.A.No.1 of 2023 in O.S.No.222 of 2015 by the learned Sub-Judge, Udthagamandalam, the Revision Petitioners/defendants 2 and 3 preferred this Civil Revision Petition.

2. Before the trial court, the Revision Petitioners filed an application in I.A.No. 1 of 2023 to condone the delay in filing the set aside exparte decree. The reason assigned by him is that the respondents/plaintiffs father Nanjan @ Hattari Nanjan, who is a politician and they insisted the parents of Revision Petitioners not to go to the court. Accordingly, they obeyed his direction and they have not appeared before the court. Moreover, one of the defendant is a minor. Hence, they are not able to follow the court proceedings. Only after receipt of notice in the Execution Petition, they have filed the said application to condone the delay in filing the application



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to set aside the exparte decree, since because the plaintiffs have taken steps to execute the decree as they are the true owners of the property. Already the suit was filed by the petitioners in O.S.No. 53 of 2012 for the same property and the same was dismissed for default. The learned counsel for respondent strongly opposed the said application stating that they wanted to set aside the exparte decree after lapse of 8 years without any reasons, hence, he prayed to dismiss this Civil Revision Petition. Furthermore, already the defendants appeared and engaged their counsel, but subsequently they failed to appear and remained exparte. On considering both side submissions, the trial judge dismissed the application stating that the reasons assigned by them is not justifiable one. Challenging the said findings, the defendants 2 and 3 have preferred this Civil Revision Petition.

3. Records perused. On perusal of records, it reveals that though the defendants appeared before the trial court in the suit proceedings, they failed to follow the proceedings, not only that, even after entering into appearance in the E.P. proceedings, they failed to file the application to set side the exparte decree and only after 8 years, they have filed the application



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to condone the delay. Hence, the conduct of respondents would show that though they have appeared through their counsel, they wantonly not followed the proceedings. Therefore, the reasons assigned by them is not justifiable one, since because after entering appearance in the suit proceedings, they have filed the application to set aside the exparte decree after lapse of 8 years. Furthermore, though they had clear knowledge about the proceedings after entering appearance in the execution case, they have not approached the court immediately, after 4 years, they have filed the application to condone the delay, as such is not acceptable. Therefore, the reasons assigned by the trial judge is justifiable one, which needs no interference. Accordingly, this Civil Revision Petition is dismissed. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

07.11.2023

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To

Sub-Judge,
Udhagamandalam.

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T.V.THAMILSELVI, J.

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