



WEB COPY

C.R.P.No.89 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.R.P.No.89 of 2023

and

C.M.P.No.678 of 2023

1.M.Ramani

2.M.Sathyasankari

3.M.Swathy

... Petitioners

Vs.

D.K.Jayasudha

... Respondent

Prayer: Civil Revision Petition is filed under Section 115 of the Civil Procedure Code to set aside the impugned Fair and Decreetal order dated 20.07.2022 made in I.A.No.3 of 2021 in O.S.No.34 of 2013 passed by the learned Principal District Judge, Vellore by allowing this Civil Revision Petition.

For Petitioners : Mr.G.Balamanikandan

For Respondent : Mr.V.Lakshminarayanan



ORDER

The Civil Revision Petition has been filed against the Fair and Decreetal order dated 20.07.2021 passed in I.A.No.3 of 2021 in O.S.No.34 of 2013.

2. The revision petitioners are the defendants and the respondent instituted a Suit for Specific Performance and Permanent Injunction.

3. The revision petitioners/ defendants were set *ex-parte* and an order was passed in favour of the respondent/ plaintiff on 26.02.2014. After a lapse of about seven (7) years, the revision petitioners/ defendants filed Interlocutory Application in I.A.No.3 of 2021 to set aside the *ex-parte* order passed on 26.02.2014. The Trial Court dismissed the Interlocutory Application in I.A.No.3 of 2021. Challenging the said order, the present Civil Revision Petition has been filed.

4. The learned counsel for the revision petitioners mainly contended that the revision petitioners/ defendants are not residing in the address stated in the Plaint and thus, they had no knowledge about the summons served on the revision petitioners/ defendants in the Original Suit and thus, they could



not be able to defend the Suit filed by the respondent/ plaintiff.

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5. The learned counsel appearing on behalf of the respondent/ plaintiff objected the said contention by stating that the address stated in the Plaint as well as in the Interlocutory Application filed in the year 2021 are one and the same and there is no change of address. The address stated in both the petitions are No.28, Arcot Road, Sathuvachari, Vellore District and therefore, the contention of the revision petitioners/ defendants in this regard was rejected by the Trial Court.

6. The findings of the Trial Court reveals that the revision petitioners themselves refused the Court summons during the relevant point of time. Thus, the revision petitioners failed to prove their *bonafide* before the Trial Court for the purpose of entertaining the Interlocutory Application, which was filed after a lapse of seven (7) years from the date of passing of the *ex-parte* order on 26.02.2014.

7. A person, who slept over his right, cannot approach the Court after several years. In the present case, the revision petitioners were not vigilant in pursuing the Civil Suit filed by the respondent/ plaintiff for Specific



Performance and Permanent Injunction.

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8. In the absence of any acceptable reason, the Court would not set aside the *ex-parte* order in a routine manner. In the present case, the revision petitioners/ defendants have not substantiated the grounds raised in the Interlocutory Application and thus, this Court do not find any infirmity or perversity in respect of the order passed by the Trial Court.

9. Accordingly, the Fair and Decreetal order dated 20.07.2021 passed by the Principal District Judge, Vellore in I.A.No.3 of 2021 in O.S.No.34 of 2013 stands confirmed and consequently, the Civil Revision Petition in C.R.P.No.89 of 2023 stands dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

12.01.2023

skr/kak

Index : Yes

Speaking order

Neutral Citation : Yes

To

The Principal District Judge,
Vellore District.



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S.M.SUBRAMANIAM, J.

skr/kak

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