



CRP(MD).Nos.543 and 431 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **16.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

CRP(MD).Nos.431 and 543 of 2017 and
CMP(MD).Nos.2501 and 2124 of 2017

CRP(MD).No. 431 of 2017

Mahalingam

... Petitioner

-Vs-

Loganathan

... Respondent

PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India against the order, dated 21.11.2016 passed in I.A.No. 1217 of 2016 in I.A.No.608 of 2016 in O.S.No.408 of 2010 on the file of the Principal District Munsif, Tuticorin.

CRP(MD).No. 543 of 2017

1.Ramachandran

2.Thambiratti

... Petitioners

-Vs-



CRP(MD).Nos.543 and 431 of 2017

Loganathan

... Respondent

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PRAYER: This Civil Revision Petition filed under Article 227 of the Constitution of India against the order, dated 10.01.2017 passed in I.A.No. 1232 of 2016 in I.A.No.810 of 2016 in O.S.No.404 of 2010 on the file of the Principal District Munsif, Tuticorin.

For Petitioners in both CRPs : Ms, Jessi Jeeva Priya

For respondent in both CRPs : Mr.S. Ramesh @ Ramaiah

COMMON ORDER

By this common order, both the Civil Revision Petitions are being disposed of.

2. I have considered the arguments advanced by the learned counsel for the respective petitioners and the learned counsel for the respondent. I have also perused the orders passed by the Trial Court in the respective cases.

3. The learned counsel for the respondent submits that the petitioners have been abusing the Court Proceedings and therefore, the



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Civil Revision Petitions are liable to be dismissed.

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4. It is submitted that the orders of the Trial Court in the respective cases are well reasoned and therefore do not warrant interference. That apart, it is submitted that the respondent had initiated collateral proceedings pursuant to the decree passed in suit where delivery was ordered. The petitioners slept over their rights.

5. C.R.P.(MD) No.431 of 2017 has been filed by the plaintiff in O.S.No.408 of 2010 on the file of the Principal District Munsif Court, Tuticorin. C.R.P.(MD) No.543 of 2017 has been filed by the plaintiffs in O.S.No.404 of 2010 on the file of the Principal District Munsif Court, Tuticorin. Both Suits were filed by the respective petitioners for declaratory relief.

6. The petitioners have allowed their respective Suits to be dismissed for non-prosecution on 14.03.2016 (O.S.No.404 of 2010) and on 13.08.2014 (O.S.No.408 of 2010).

7. In O.S.No.404 of 2010, I.A.No.810 of 2016 was filed for



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restoration of O.S. which was dismissed for non-prosecution on 21.09.2016. Therefore, the petitioners in C.R.P.(MD) No.543 of 2017 have once again filed I.A.No.1232 of 2016 for restoration of I.A.No.810 of 2016 which was dismissed on 21.09.2016. The said I.A.No.1232 of 2016 was dismissed by the impugned order dated 10.01.2017 which is subject matter of C.R.P.(MD) No.543 of 2017.

8. As far as O.S.No.408 of 2010 which is subject matter of C.R.P.(MD) No.431 of 2017 is concerned, the suit was earlier dismissed on 13.08.2014. Therefore, the petitioner in C.R.P.(MD) No.431 of 2017 filed I.A.No.964 of 2014 to restore the suit to the file of the Court. The Court also allowed the I.A.No.964 of 2014 on 19.03.2015 and restored the suit to the file of the Court. The petitioner however once again allowed the suit to be dismissed on 03.02.2016.

9. Under these circumstances, the petitioner filed I.A.No.608 of 2016 to restore the suit to the file of the Court. However, the petitioner allowed I.A.No.608 of 2016 to be dismissed for non-prosecution on 06.06.2016. The petitioner again filed I.A.No.1217 of 2016 to restore the I.A.No.608 of 2016 which was dismissed for non-prosecution on



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06.06.2016. By the impugned order dated 21.11.2016, I.A.No.1217 of 2016 was dismissed. It is the subject matter of C.R.P.(MD) No.431 of 2017.

10. Thus, it is clear that the respective petitioners were negligent in not prosecuting the suit diligently. Despite the suit being restored earlier after it was dismissed on 13.08.2014, the petitioner in C.R.P.(MD) No.431 of 2017 was negligent once again in not prosecuting the suit.

11. The reasoning given by the Trial Court in dismissing the respective I.As. filed for restoration of the respective I.As. is almost identical. Whether the petitioners are indeed entitled to the relief in the respective suit or not is a matter which is required to be decided in a trial.

12. The Court has dismissed I.As. filed by the respective petitioners primarily on the ground that the petitioners were not only negligent in not prosecuting the Suits and the I.As. filed for restoration of the suits and the I.As. but also filed the applications before the wrong forum to delay. The conduct of the petitioners is reprehensible although such mistakes can be attributed to the counsel and the clerks handling the case. There are



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cumulative factors which have contributed to the dismissal of the suits and dismissal of the I.As. filed for restoration of suits and I.As.

13. Six years were lost due to the pendency of these Civil Revision Petitions before this Court. The petitioners have otherwise filed respective I.As. for restoration of the respective suits in time. Considering the above, I am inclined to allow these Civil Revision Petitions on the following terms:-

- i. The petitioner in C.R.P.(MD) No.431 of 2017 is directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) as costs to the respondent within a period of six weeks from the date of receipt of a copy of this order, failing which, the order passed in C.R.P. (MD) No.431 of 2017 will stand automatically vacated without further reference.
- ii. The petitioners in C.R.P.(MD) No.543 of 2017 are directed to pay a sum of Rs.50,000/- (Rupees Fifty Thousand only) jointly as costs to the respondent within a period of six weeks from the date of receipt of a copy of this order, failing which, the order passed in C.R.P.(MD) No.543 of 2017 will stand automatically



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vacated without further reference.

iii. The respective petitioners shall file a proof of payment before Trial Court.

iv. On payment of the aforesaid amount, the Trial Court is directed to dispose of the suits as expeditiously as possible within a period of six months thereafter.

14. Accordingly, these Civil Revision Petitions are allowed with the above directions. No costs. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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To

The Principal District Munsif, Tuticorin.



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C.SARAVANAN,J.,

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