



C.R.P.Nos.2338 and 2339 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.06.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

C.R.P.Nos.2338 and 2339 of 2024

Mohana Sundari @ Kalaiyarasi

... Petitioner

Vs.

Ramasamy Gounder [Died]

- 1.Alamelu Ammal
- 2.Subramaniyan
- 3.Kamatchi
- 4.Lakhsmi
- 5.Meena
- 6.Ellammal
- 7.Mageshwari
- 8.Mohana
- 9.Ezhumalai
- 10.Vimala

... Respondents

PRAYER in C.R.P.No.2338 of 2024: Civil Revision Petition is filed under Section 115 of CPC to set aside the docket order dated 10.01.2024 and consequently extend the time for payment of cost of Rs.500/- in I.A.No.862 of 2023 in O.S.No.22 of 2012 on the file of the District Munsif Court, Tindivanam.



C.R.P.Nos.2338 and 2339 of 2024

PRAYER in C.R.P.No.2339 of 2024: Civil Revision Petition is filed under Section 115 of CPC to set aside the docket order dated 10.01.2024 and consequently extend the time for payment of cost of Rs.500/- in I.A.No.863 of 2023 in O.S.No.22 of 2012 on the file of the District Munsif Court, Tindivanam.

For Petitioner
in both CRPs : Mr.S.Natarajan

COMMON ORDER

C.R.P.No.2338 of 2024 is filed against the order passed by the learned District Munsif, Tindivanam in I.A.No.862 of 2023 in O.S.No.22 of 2012 dated 10.01.2024 and C.R.P.No.2339 of 2024 is filed against the order passed by the learned District Munsif, Tindivanam in I.A.No.863 of 2023 in O.S.No.22 of 2012 dated 10.01.2024.

2.I.A.No.862 of 2023 was filed to condone the delay of 323 days in representing the returned papers and I.A.No.863 of 2023 was filed to condone the delay of 337 in representing the papers.

3.The petitioner/plaintiff challenging the cancellation of settlement



deed which was done without following any legal procedure filed the suit in

O.S.No.22 of 2012 before the learned District Munsif, Tindivanam. After

filing of the above suit, her grandfather Ramasamy Gounder and her father

Moorthy came for a compromise and being a family dispute, the petitioner

was willing for a compromise and had not pursued the suit before the Lower

Court. In the meanwhile, the suit was dismissed for default. Due to the

sugar coated words given by her father and grandfather, she had not taken

any steps to reopen the suit which was dismissed for default on 19.07.2013.

Thereafter, on coming to know about the dilatory tactics adopted by them,

she filed a petition to restore the suit along with the petitions to condone the

delay. These petitions were entertained and allowed with a condition of

payment of cost of Rs.500/- in each petition to the District Mediation Centre,

Villupuram on or before 22.12.2023, failing with the petitions shall stand

dismissed automatically and posted the case on 02.01.2024. On

02.01.2024, a petition under section 148 was filed and the same was

allowed and the case was posted on 06.01.2024. On 06.01.2024, there was

no representation and the case was again posted on 08.01.2024, thereafter it

was posted to 10.01.2024 and finally, both the petitions were dismissed on



that day. Against which, the present petitions filed.

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4.The contention of the learned counsel for the petitioner is that the petitioner filed a suit to set aside the settlement deed and the sale deed executed when she was 1½ years and after she attained majority, the petitioner filed the suit. The petitioner's father and grandfather approached her and assured that the encumbrance created to the family property would be cleared and were in the process of compromise. Believing the words of her father and grandfather, the petitioner had not pursued the suit thereafter and later found the compromise to be farce. In the meanwhile, the suit was dismissed for default on 19.07.2013 and thereafter, the petitioner filed a petition to restore the suit along with a condone delay petition. The Lower entertained the petitions but with a condition to pay cost. This was not informed to the petitioner and hence, cost could not be remitted within the time as directed by the Lower court. Later, the petitioner came to know that the conditional order had not been complied with and in the process, she has been denied the substantial justice. He would submit that the petitioner has got fair chance in succeeding the suit and reclaim her properties. He further



submitted that it would be proper that the issues can be decided only after full-fledged trial once the suit is restored to the file and trial progresses. He would further submit that the petitioner is ready to remit the cost as directed by the Lower Court to the District Mediation Centre, Villupuram within a short period.

5.Considering the submissions made and finding that substantial justice would be only after full-fledged trial, this Court is inclined to set aside the order passed by the learned District Munsif, Tindivanam in I.A.Nos.862 and 863 of 2023 dated 10.01.2024 on condition the petitioner pay a sum of Rs.2,500/- [Rupees Two Thousand Five Hundred Only] to the District Mediation Centre, Villupuram within a period of 10 days from the date of receipt of a copy of this order. It is seen that the suit is of the year 2012 and in view of the same, the learned District Munsif, Tindivanam is directed to complete the proceedings in O.S.No.22 of 2012 within a period of four months from the date of restoration.



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6. With the above directions, the civil revision petitions are allowed.

No costs.

24.06.2024

Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

cse

To

The District Munsif,
Tindivanam.



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M.NIRMAL KUMAR, J.

cse

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