



C.R.P.(PD)No.2654 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2024

CORAM

THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN

C.R.P.(PD)No.2654 of 2024

and

C.M.P.No.13917 of 2024

1.K.M.Balasubramaniam

2.B.Vaitheeswaran

.. Petitioners

Vs.

C.Thangayee

.. Respondent

Prayer : The Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the fair and final order, dated 01.12.2024, made in I.A.No.3 of 2023 in O.S.No.233 of 2015 on the file of the Court of the learned Principal District Munsif at Erode.

For Petitioners : Mr.C.E.Pratap

ORDER

An application under Order IX Rule 7 of the Code of Civil Procedure came to be allowed by the learned Principal District Munsif at Erode in



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I.A.No.3 of 2023 in O.S.No.233 of 2015 and this order is put under challenge before me.

2. Mr.Prathap would vehemently contend that on the basis of the judgment of this Court in *Visalakshi vs. Umapathy and Others [(2015) 5 CTC 67]*, the application is barred by Article 137 of the Limitation Act, 1963. The position of law has been settled by the judgment of this Court in *Rajasekar vs. Govindammal [(2020) 4 LW 481]* by Hon'ble Mr.Justice R.Subramanian holding that Article 137 of the Limitation Act does not apply to an application under Order IX Rule 7 of the Code of Civil Procedure. He had followed the previous judgments of the Supreme Court in *Arjun Singh vs. Mohindra Kumar and Others [AIR 1964 SC 993]* and *Sangram Singh vs. Election Tribunal, Kotah, Bhurey Lal Baya [AIR 1955 SC 425]*.

3. The respondent herein as the petitioner had specifically pleaded that she had not received any summons in the suit. She was not even aware of the further proceedings.



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4. A perusal of the affidavit would show that the respondent is a senior citizen aged about 79 years. In order to give an opportunity to contest the proceeding which has serious implications with respect to the right over an immovable property, the learned trial Judge has permitted the application on the payment of cost of Rs.2,000/- (Rupees Two Thousand only). Therefore, I do not find any error or irregularity in the order passed by the learned Principal District Munsif at Erode especially, since the learned trial Judge has exercised her discretion considering the age and illness of the respondent herein.

5. Accordingly, the Civil Revision Petition stands dismissed. No costs. The connected Civil Miscellaneous Petition is closed.

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Index:Yes/No

Speaking Order :Yes/No

Neutral Citation:Yes/No



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V. LAKSHMINARAYANAN, J.

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To

The learned Principal District Munsif,
Erode

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and

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