



C.R.P. No. 2694 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2024

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

C.R.P. No. 2694 of 2019

1.Sellammal
2.Gopalakrishnan
3.Navakumar

... Petitioners

Vs.

Rathnakumar

... Respondent

Civil Revision Petition is filed under Article 227 of Constitution of India, to set aside the order dated 15.02.2008 made in C.M.A. No. 138 of 2004 on the file of the Sub Court, confirming the order passed in I.A. No. 531 of 2003 in I.A. No. 314 of 2003 in O.S. No. 102 of 1995 on the file of the District Munsif, Mettupalayam.

For Petitioners : Mr. D. Udhayasuriyan

For Respondent : Mr. V.S. Senthil Kumar



C.R.P. No. 2694 of 2019

WEB COPY

ORDER

This Civil Revision Petition has been filed against the order dated 15.02.2008, in C.M.A. No. 138 of 2004 on the file of the I Additional Subordinate Court, Coimbatore.

2. The petitioners are the defendants 4 to 5 and respondent is the plaintiff in O.S. No. 102 of 1995. The suit was filed for declaration and permanent injunction and the petitioners were set ex parte on 04.02.2003. Seeking to set aside the ex parte order, the petitioners / defendants 4 to 6 intends to file an application to set aside the ex parte order and along with that petition they filed an application under Section 5 of the Limitation Act in I.A. No. 314 of 2003 seeking to condone the delay of 143 days in filing the restoration petition. The said application was dismissed for default on 30.10.2003. Again the petitioners filed an application in I.A. No. 531 of 2003 to restore I.A. No. 314 of 2003 which was dismissed for default on 30.10.2003 that was posted for enquiry. The said petition was dismissed by order dated 13.01.2004. The reason for dismissing I.A. No.531 of 2003 as stated in the order dated 13.01.2004 is the trial Court intends to allow the



C.R.P. No. 2694 of 2019

I.A. No. 531 of 2003 and accordingly, on 06.01.2004, the Court expressed its view that the petition will be allowed on payment of cost of Rs.300/- payable by the petitioners to the respondent on or before 12.01.2004 and adjourned the matter to 13.01.2004. As the petitioners failed to comply the condition imposed by the Court in paying the cost, the I.A., was dismissed on 13.01.2004. Against the said order, the petitioners filed miscellaneous appeal in C.M.A. No.138 of 2004. On consideration of the facts and circumstances of the case, the I Additional Subordinate Court, Coimbatore has dismissed the C.M.A. No.138 of 2004 by its order dated 15.02.2008. Aggrieved by the same, the present Civil Revision Petition has been filed.

3. Heard the learned counsel for the petitioners and the learned counsel for the respondent.

4. On careful perusal of the record, it appears that the petitioners who are the defendants 4 to 6 who are set ex parte by order dated 04.02.2003, they filed an application seeking to set aside the ex parte order and along with that application, they filed a petition to condone the delay of 143 days



C.R.P. No. 2694 of 2019

in filing the petition to set aside ex parte order. The said petition was dismissed on the ground that the petitioners failed to comply the condition imposed by the Court on 06.01.2004 to pay the cost on or before 12.01.2004. Accordingly, the said petition was dismissed on 13.01.2004.

5. Admittedly, the suit was filed in the year 1995. The suit was disposed of by decree and judgment dated 04.02.2003. Admittedly, the suit was decreed setting the defendants 4 to 6 ex parte. However, the District Munsif, Mettupalayam has passed reasoned order on 06.01.2004 considering the contentions of the petitioners in I.A. No. 531 of 2003 to allow the petition on imposing certain conditions. As condition was not complied with by the petitioners, dismissed I.A. No. 531 of 2003 on 13.01.2004. It appears that the petitioners are very careless in pursuing the case at all stages. The affidavit also filed by an Advocate clerk stating the reasons for non-compliance of the condition imposed by the Court. It appears that the order has been passed in I.A. No. 314 of 2003 after granting sufficient time but the petitioners did not comply with the said order. The Court below also found that the explanation furnished by the petitioners for their failure to comply



C.R.P. No. 2694 of 2019

with the conditional order passed in I.A. No. 531 of 2003 is not inadmissible.

6. Considering all these aspects, the lower appellate Court has dismissed the appeal and the final order passed by the District Munsif Court, Mettupalayam on 13.01.2004 in I.A. No. 531 of 2003 in I.A. No. 314 of 2003 in O.S. No. 102 of 1995 is upheld.

7. On careful perusal of the orders passed by the District Munsif Court, Mettupalayam and the I Additional Subordinate Court, Coimbatore, this Court is of the considered opinion that the petitioners failed to state any valid reasons to interfere into the orders passed by the trial Court and the lower appellate Court. It appears that both Courts passed reasoned orders considering the facts and circumstances of the case, as such interference of this Court is not required.



WEB COPY



C.R.P. No. 2694 of 2019

BATTU DEVANAND, J.

8. Accordingly, the Civil Revision Petition is dismissed.

9. There shall be no order as to costs.

15.07.2024

Index : Yes / No

Neutral Citation : Yes / No

AT

To

1.The District Munsif, Mettupalayam.

2.The I Additional Subordinate Court, Coimbatore.

C.R.P. No. 2694 of 2019