



C.R.P.(MD)No.8 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.12.2024

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

C.R.P.(MD)No.8 of 2022

Meenakshi Sundaram (Died)

1.M.Selvarani

2.A.Deepalakshmi

3.K.Ramalakshmi

4.M.Ragavendran

... Petitioners/Respondents/Petitioners/Plaintiffs

Vs.

M.Bavani

... Respondent/Petitioner/Respondent/Defendant

PRAYER : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside the order passed to condone delay of 1427 days in I.A.No.528 of 2015 challenging the condone delay petition in I.A.No.212 of 2010, filing for final decree petition in O.S.No.73 of 2001 on the file of the Principal Sub Court, Srivilliputhur, order dated 19.09.2019.

For Petitioners : Mr.G.Ravisankar

For Respondent : No Appearance



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ORDER

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This petition has been filed to set aside the order passed in I.A.No. 528 of 2015 in I.A.No.212 of 2010 in O.S.No.73 of 2001 on the file of the Principal Sub Court, Srivilliputhur, order dated 19.09.2019.

2.The facts in brief:

Suit in O.S.No.73 of 2001 was filed by the respondent herein seeking the relief of recovery of Rs.2,15,840/- with subsequent interest on the principal amount of Rs.1.20 lakh with cost, on the basis of the mortgage by depositing of title deeds. The revision petitioner entered appearance and filed their statement. When suit was called for cross examination of plaintiff, defendant failed to appear and so preliminary decree was passed. The decree holder filed I.A.No.212 of 2010 to condone the delay in filing the final decree application. No notice was served upon the revision petitioner. Only at the time of making enquiry by his Advocate with the Court, the above said fact came to their notice. Because of that there is a delay of 1427 days in preferring the petition to set aside the exparte preliminary decree.



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3.That was resisted by the respondent herein contending that the preliminary decree was passed in the year 2002 due to the absence of the revision petitioner for cross examining the plaintiff. Now, the final decree is passed to delay the final decree process, this petition is filed.

4.After hearing both sides the trial Court allowed the petition. Against which this revision is preferred.

5.Heard both sides.

6.The learned counsel for the revision petitioner would reiterate the very same averments made in the counter before the trial Court. The learned counsel on record for the respondent filed a memo, dated 08.11.2024 stating that he has handed over the bundle to the party. So the name of the respondent was ordered to be printed in the cause list. Accordingly, his name was printed in the cause list. No change of vakalath has been filed. There was no appearance also.

7.Now we will go to the merits of the matter. The trial Court has



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elaborately considered the record of proceedings. It is seen that the respondent was not living in the address mentioned in the petition in I.A.No.212 of 2010. She was residing with her family in Coimbatore. But, notice were sent only to the address mentioned in the petition, which is factually incorrect. On the date of the notice, the respondent was living in Coimbatore and not in Srivilliputhur. Because of that only paper publication was ordered and order was passed. So that was substantiated by way of proper documents and record of proceedings. Whether the revision petitioner herein was aware of the fact and shifting of residence to Coimbatore is not clear on record. There is a finding by the trial Court that there is no ground to doubt the conduct of the revision petitioner in sending notice to Srivilliputhur. But, however, considering the fact that no proper notice was served upon the respondent to the correct address, it was just thought to allow the application without any cost.

8. Reading of the trial Court order and record of proceedings, I am convinced that it is proper order upon proper reason, which requires no interference, even though there is delay of 1427 days. So I find no reason to entertain this revision.



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9. Accordingly, this civil revision petition stands dismissed. No costs.

18.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
TM

To

1. The Principal Subordinate Judge, Srivilliputhur.

2. The Section Officer,
E.R. Section/V.R. Section,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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