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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2024

CORAM

THE HONOURABLE MR.JUSTICE N.SENTHILKUMAR

C.R.P.(MD)(PD)No.636 of 2020

and

C.M.P.(MD)No.4141 of 2020

Gandhi

... Petitioner

-VS.-

Gnanasekaran (Died)

1.Kalaiselvi

2.Krishnaveni

3.Sumalatha

4.Chellapandian

5.Nagarajan

...Respondents

PRAYER: Civil Revision Petition is filed under Article 227 of Constitution of India to call for the records and to set aside the fair and decreetal order, dated 16.03.2020 in I.A.No.128 of 2018 in unnumbered in A.S. of 2019 in Sr.No. 7159 on the file of the Principal District Court, Sivangangai.

For Petitioner	:Mr.E.S.Madhusudhanan for Mr.T.V.Sivakumar
For R1 to R4	:Mr.Mr.R.Suriyanarayanan for Mr.A.Logesh Kumar
For R5	:Died



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ORDER

This Civil Revision Petition has been filed challenging the impugned order passed in I.A.No.128 of 2018 in unnumbered in A.S. of 2019 in Sr.No. 7159 on the file of the Principal District Court, Sivangangai, dated 16.03.2020.

2.The Revision Petitioner is the first defendant in the suit. The respondents 1 to 4, as plaintiffs, have filed the suit in O.S.No.114 of 1999 and an *ex parte* judgment was delivered in the said suit and the Revision Petitioner has not filed any application to challenge the *ex parte* order and she has not filed any appeal challenging the *ex parte* order. The plaintiffs have filed an execution petition in E.P.No.25 of 2012 and the revision petition had filed an application in E.A.No.132 of 2013 under Section 47(1), Order 21 Rule 55(c) r/w Section 151 CPC and the same was dismissed.

3.Thereafter, the petitioner has filed an appeal along with the petition to condone the delay in filing the appeal in I.A.No.128 of 2018 in Unnumbered A.S. of 2019. The said petition was dismissed by the appellate Court by holding that it was an attempt made by the Revision Petitioner, who had slept



for seven years without filing application, as against the *ex parte* order. Further, it is observed that consciously, the Revision Petitioner did not file any application as per Section 49 of CPC and she has exhausted the remedy by filing an application under Section 47 CPC in and the said petition was also dismissed by the Court below. Challenging the same, the present Civil Revision Petition is filed.

4.The learned Counsel for the Revision Petitioner contended that the impugned order has been passed without assigning any valid reasons dismissing the petition filed by the petitioner and that the same needs interference of this Court.

5.The learned Counsel for the respondents 1 to 4/plaintiffs contended that when the Revision Petitioner was aware of the *ex parte* order, filing an application in I.A.No.128 of 2020, after the lapse of seven years, is nothing but an abuse of process of law and circumventing the entire judicial process to come to an end and such an attempt cannot be permitted, as there was no *bona fide* reason given by the Revision Petitioner.



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6.This Court finds no reason to interfere with the order passed by the learned Principal District Judge, Sivangangai, dated 16.03.2020, in I.A.No.128 of 2018 in unnumbered in A.S. of 2019 in Sr.No.7159 and the same is confirmed. Accordingly, the Civil Revision Petition is dismissed. The EP Court is directed to conclude the execution proceedings within a period of six months from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

09.12.2024

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

cmr

To

The Principal District Judge, Sivangangai.



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N.SENTHILKUMAR, J.

cmr

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