



C.R.P(PD)(MD)No.2388 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 01.04.2024

CORAM:

THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

C.R.P(PD)(MD)No.2388 of 2019

Sentrayan : Petitioner/ Petitioner/3rd Plaintiff
Vs.

1.Rajendran (Died) : 1st Respondent/1st Respondent/ Plaintiff

R.V.R.Murugan (Died)

2.The Branch Manager,
Tamil Nadu Industrial Investment Corporation,
Theni.

3.Tamil Nadu Industrial Investment Corporation,
Regional Office, Madurai.

4.Tamil Nadu Industrial Investment Corporation,
Head Office, Chennai.

5.R.Tamilselvi,

6.R.Uma Maheshwari

7.R.Menaka Devi ... Respondents

(R5 to 7 are brought on record as LR's of the deceased
1st Respondent vide Court order dated 30.11.2023
made in CMP(MD)Nos.1605 to 1607 of 2020)



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Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, 1908, to set aside the fair and decretal order, dated 08.02.2019, made in I.A.No.27 of 2018 in O.S.No.278 of 2007 on the file of the District Munsif Court, Theni.

For Petitioner : Mr.R.Aravindan

For Respondents : Mr.R.Saravanan, Standing Counsel
for R2 to R4

ORDER

The present Civil Revision Petition has been filed by the third plaintiff in a suit for declaration and injunction, challenging the order passed by the trial Court, wherein, it has dismissed the application seeking to condone the delay of 930 days in filing an application to restore the suit.

2. The plaintiffs, who are three in numbers, had filed O.S.No.278 of 2007 on the file of the District Munsif, Theni, as against the Tamil Nadu Industrial Investment Corporation for declaration that their demand notice and distraint proceedings are unlawful and for restraining them from conducting any public auction by way of permanent injunction. While the suit was pending, the second plaintiff passed away and the other plaintiffs had not appeared before the Court. The suit was dismissed for default on 05.12.2014.

3. The third plaintiff alone had chosen to file Interlocutory Application to condone the delay of 930 days in filing an application to restore



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the suit. The third plaintiff had contended that the first plaintiff in collusion with the defendants had not prosecuted the suit properly and he came to know about the dismissal of the suit from a third party in his village. However, the trial Court proceeded to dismiss the said application. Challenging the same, the present Civil Revision Petition has been filed.

4. The learned counsel appearing for the revision petitioner had contended that the first plaintiff in collusion had left the suit to be dismissed for default. He had got a good case. Unless he is permitted to contest the suit, he will be put to hardship.

5. Per contra, the learned Standing Counsel for the respondents 2 to 4 Corporation had contended that the suit itself is not maintainable, in view of Section 29 of the State Financial Corporation Act, 1951. He further contended that the properties have already been sold to a third party and the prayer sought for in the suit has already become infructuous.

6. I have carefully considered the submissions made by the learned counsel on either side and perused the materials available on records.



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7. It could be seen from the records that the third plaintiff being a party to the suit, had not followed up with his counsel and admittedly, he had got knowledge about the dismissal of the suit for default only from the third party in the village. Therefore, it is clear that the plaintiff was not vigilant in prosecuting the suit. That apart as rightly contended by the learned counsel for the respondents 2 to 4, the suit properties have already been sold by the Statutory Corporation in favour of a third party and therefore, the prayer sought for in the suit, relating to distrain proceedings and for an injunction not to conduct public auction, has already become infructuous.

8. Considering the fact that the plaintiff has not chosen to explain the delay and the Tamil Nadu Industrial Investment Corporation has already sold the property, the trial Court has rightly dismissed the petition in condoning the delay of 930 days. There is no merit in this Civil Revision Petition. The Civil Revision Petition stands dismissed. No costs.

01.04.2024

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



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To

- 1.The District Munsif,
Theni.
- 2.The Branch Manager,
Tamil Nadu Industrial Investment Corporation,
Theni.
- 3.Tamil Nadu Industrial Investment Corporation,
Regional Office, Madurai.
- 4.Tamil Nadu Industrial Investment Corporation,
Head Office, Chennai.
- 5.The Section Officer, V.R. Section,
Madurai Bench of Madras High Court,
Madurai.



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R.VIJAYAKUMAR.J.

LS

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