



C.R.P.(MD)No.2601 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 22.10.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P.(MD)No.2601 of 2024
and
C.M.P.(MD)No.15011 of 2024

M.Chinnappudaiyar

... Petitioner / Petitioner / 2nd Defendant

Vs.

1.Chandra

2.Pappammal

3.Nallammal

4.Shanthi

... Respondents / Respondents /
Plaintiff Nos.1 to 4

5.M.Kannusamy

6.M.Arumugam

7.Palaniyandi

8.Ramu

... Respondents / Respondents /
Defendant Nos.1, 3 to 5

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order passed by the learned Principal



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Subordinate Judge, Tiruchirappalli made in I.A.No.2 of 2023 in O.S.No.586 of 2011, dated 27.08.2024.

For Petitioner : Mr.C.Gangai Amaran
for Mr.K.M.Karunakaran

ORDER

Heard the learned counsel for the revision petitioner.

2. The petitioner was shown as the second defendant in O.S.No.586 of 2011 on the file of the Principal Sub Court, Trichirappalli. The suit was for partition and for declaration that the sale deed bearing Document No.1725 / 2003 is invalid insofar as the plaintiff's share is concerned. Preliminary decree was passed and declaration regarding the suit sale deed was also made vide Judgment and decree dated 16.12.2019. To set aside the same, the second defendant filed IA. Since there was a delay, to condone the same I.A.No.2 of 2023 was filed. The condone delay petition was dismissed vide order dated 27.08.2024. Questioning the same, this civil revision petition came to be filed.

3. The learned counsel appearing for the revision petitioner reiterated all the contentions set out in the memorandum of grounds of the revision petition. He called upon this Court to set aside the impugned order and grant relief as prayed for.



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4. I am not swayed by the submission. As rightly pointed out by the court below, the delay though technically 1154 days is actually more than 3000 days. The suit was filed in the year 2011. The petitioner herein was also duly served. Several opportunities were given for filing written statement. Finally, on 13.03.2014, when the petitioner still had not filed any written statement, he was set exparte. This was on 09.04.2014. It is true that the exparte decree was passed on 16.12.2019. The reason given by the petitioner is that he was afflicted with jaundice and went to Kerala for nature treatment. No person will be affected with jaundice for such long time of 1154 days. Paragraph No.7 of the impugned order reads as follows:-

“7. This court perused the case diary, for the petitioner this court granted more than 16 hearings to file written statement but this petitioner not filed the written statement and remain exparty on 05.11.2012. Exparte judgment and decree passed in the court on 16.12.2019. The petitioner explained the reason for delay for the year 2019, but the petitioner remained silent without his appearance into the court from 2012 onwards, the reasons of his absence for previous hearing is not explained into the court properly. Moreover petitioner not supported his submission any oral or documentary evidence. The delay caused is abnormal delay. Final decree petition filed by the respondent herein in the year 2022, this petitioner filed this Section 5 petition as after thought. This court opined that allowing this petition might prejudice the otherside and it cannot be compensated by the way of terms. Hence, this Court not inclined to allow this petition. In the result, petition dismissed with cost.”



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5. The reasons given above are sound. The impugned order does not warrant interference. The civil revision petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

22.10.2024

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

The Principal Subordinate Judge, Tiruchirappalli .



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G.R.SWAMINATHAN, J.

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