

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2015

CORAM:

THE HON'BLE MR. JUSTICE D.HARIPARANTHAMAN

C.R.P.No.3958 of 2015

P.Ramalingam
S/o.Perumal

.. Petitioner/Appellant/Petitioner

Vs.

1.The Deputy Registrar of
Co-operative Society
Pudupalayam Main Road
Cuddalore

2.Special Officer
E-2611, Vellakarai Primary
Co-operative Agricultural
Credit Sangam, Vellakarai
Cuddalore - 3.

.. Respondents/Respondents/
Respondents

Prayer:

Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order dated 28.04.2015 made in I.A.No.214 of 2014 in CMA(CS).No.6 of 2012 on the file of the Principal District Judge, Cuddalore District, Cuddalore.

For Petitioner : Mr.D.Baskar

For Respondents : Mr.M.Venugopal, Spl.G.P., (C.S)

O R D E R

Heard the learned counsel appearing for the revision petitioner and the learned Special Government Pleader appearing for the respondents.

2. It is the case of the revision petitioner that he has filed an appeal in C.M.A.No.6 of 2012 against the order of the first respondent, viz., Deputy Registrar of Co-operative Societies, Cuddalore Region, Cuddalore dated 25.08.2011 made in Na.Ka.4110/2009 on the file of the Principal District Judge, Cuddalore. The said appeal was dismissed for default on

05.04.2014. Hence, the revision petitioner filed an application under Order 9 Rule 9 CPC to set aside the order dated 05.04.2014 and to restore the case on file, along with an application to condone the delay of 160 days in filing restoration petition.

3. The learned Principal District Judge, Cuddalore passed an order dated 28.04.2015 rejecting the application in I.A.No.214 of 2014 in CMA(CS).No.6 of 2012, against which the present Civil Revision Petition has been preferred.

4. The learned Principal District Judge, Cuddalore had dismissed the application on the ground that in the affidavit filed in support of the application, the delay was stated as 134 days in one place and in another place, it was stated as 160 days.

5. However, according to the revision petitioner, due to illness, he could not appear before the Court on 05.04.2014 and on the said date, the matter was dismissed for default. Unless, the C.M.A is restored to file, he would loose a valuable appellate remedy.

6. I find much force in the submission made by the learned counsel appearing for the revision petitioner that unless the C.M.A is restored to file, the revision petitioner would be put to great prejudice, since he would loose a valuable appellate remedy. Hence, I am inclined to allow the Civil Revision Petition and the order dated 28.04.2015 made in I.A.No.214 of 2014 in CMA(CS).No.6 of 2012 is hereby set aside and the application to condone the delay in filing the restoration petition is allowed.

7. The learned Principal District Judge, Cuddalore is directed to number the interim application relating to restoration of C.M.A and pass consequential order and decide the C.M.A on merits and in accordance with law.

8. The Civil Revision Petition is disposed of in the above terms. No costs.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

To

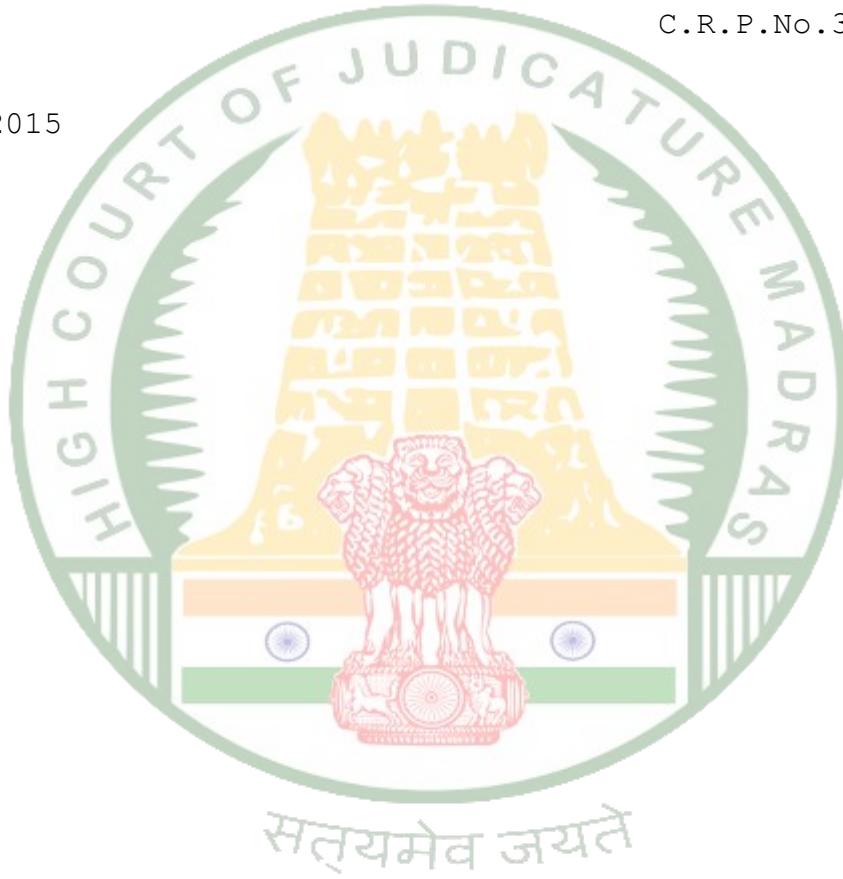
The Principal District Judge,
Cuddalore District, Cuddalore

+1 cc to Spl.Government Pleader(sr.56638)
+1 cc to Mr.D.Baskar,Advocate(sr.56412)

C.R.P.No.3958 of 2015

svi(co)

cp 28/10/2015



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