

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 13TH DAY OF JUNE 2016

THE HON'BLE MR. JUSTICE PUSHPA SATHYANARAYANA

A.Nos.2063 AND 2064 of 2016

IN

C.S.No.62 of 2010

C.S.No.62 of 2010

M/s. Bhargawai Constructions,

Rep. By its Proprietor, Mr. Palanirajan,

Having Office at: Flat No.31, II Floor,

Agarchand Mansions, No.152, Anna Salai,

Chennai - 600 002

... Plaintiff

Vs.

S.R.M.Civil Works Pvt. Ltd.,

Rep. By its Chairman,

Veeraswamy Street, T.Nagar,

Chennai - 600 017

... Defendant

A.Nos.2063 AND 2064 of 2016

S.R.M.Civil Works Pvt. Ltd.,

Rep. By its Chairman,

Veeraswamy Street, T.Nagar,

Chennai - 600 017

... Applicant/Defendant

Vs

M/s. Bhargawai Constructions,
Rep. By its Proprietor, Mr. Palanirajan,
Having Office at: Flat No.31, II Floor,
Agarchand Mansions, No.152, Anna Salai,
Chennai - 600 002 ... Respondent/Plaintiff

A.NO.2063 OF 2016

Application praying that this Hon'ble Court be pleased to condone the delay of 385 days in filing to set aside exparte judgment and decree dated 23.02.2015 in C.S.No.62/2010.

A.NO.2064 OF 2016

Application praying that this Hon'ble Court be pleased to set aside ex-parte judgement and decree dated 23.02.2015 in CS No.62/2010 and restore the suit on file.

These Applications coming on this day before this court for hearing court made the following order:

In the suit in C.S.No.62 of 2010, the sole defendant was set ex parte on 23.02.2015 on the ground that despite service of notice, there was no appearance for the defendant.

2. It is the submission of the learned Senior Counsel for the applicant that a wrong address had been given and summon was

served by the Bailiff on a wrong person. In the mean while, an Execution Petition was also filed by the plaintiff in E.P.No.12 of 2016, in which, the defendant had appeared and made his objections.

3. Subsequently, from the records, it is seen that the Execution Petition was stayed by this Court and it was posted for counter by the plaintiff.

4. It is admitted that there was a discrepancy in the address of the defendant and the service was not proper.

5. This Court had also stayed the Execution Petition only based on the said reason.

6. The learned counsel appearing for the plaintiff and the respondent in Application No.2065 of 2016 fairly concedes that he has no serious objection for condoning the delay in filing the application to set aside the ex parte decree and Judgment and also for setting aside the ex parte decree and Judgment dated 23.02.2015.

7. The entire confusion was due to the mentioning of wrong address. Therefore, this Court is of the view that the delay can be condoned and the ex parte decree may be set aside. Accordingly, delay is condoned and the ex parte decree and Judgment dated 23.02.2015 passed in C.S.No.62 of 2010 against the sole defendant is set aside.

sd/.P.S.N.J

13.06.2016

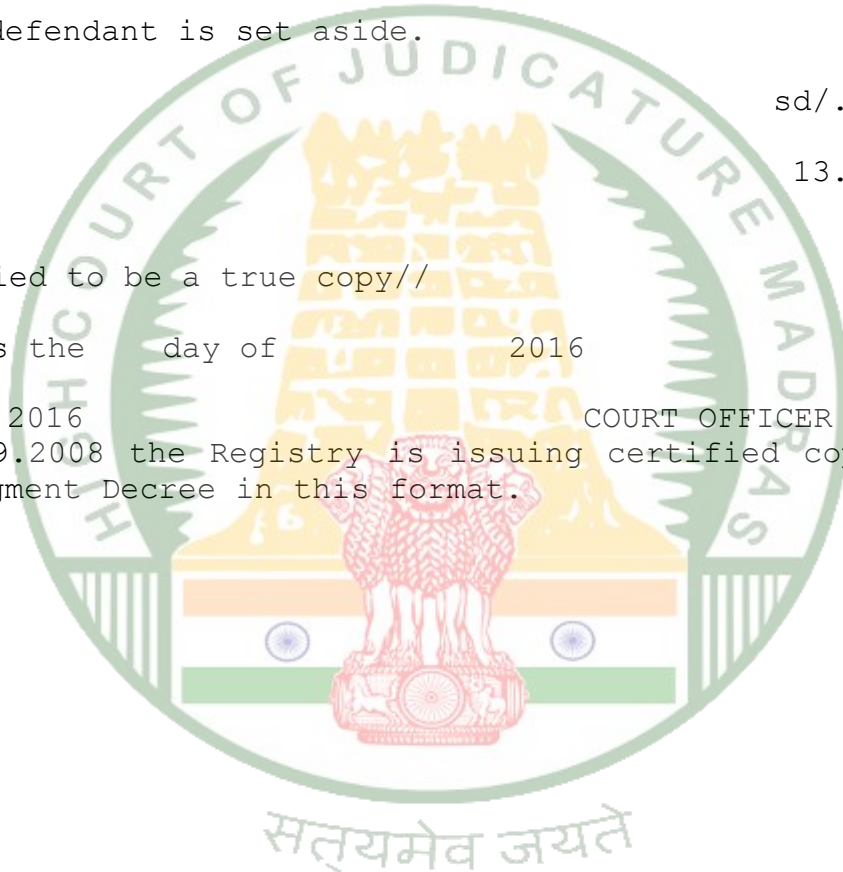
//Certified to be a true copy//

Dated this the day of 2016

S.s/01.08.2016

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.



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