

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(NPD). No.1012 of 2017 and
C.M.P. No.4912 of 2017

1. N. Palanisamy

2. P. Balasubramaniam

...Petitioners

Vs.

1. A. Palanichamy

2. D. Arivikarasi

3. D. Jai Nirmal

4. D. Vimal

5. K. Palanisamy

6. P. Devaraj

...Respondents

PRAYER:

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The Civil Revision Petition is filed under Article 115 of the Constitution of India, to set aside Docketel order of arrest dated 19.01.2017 made in E.P.No.51/2006 in O.S.No.378/1992 on the file of Principal Sub Court, Tiruppur.

For petitioner : Mr.K.Raja

ORDER:

The petitioners have filed this Civil Revision Petition to set aside the Docket order of arrest dated 19.01.2017 made in E.P.No.51/2006 in O.S.No.378/1992 on the file of Principal Sub Court, Tiruppur.

2. The first and second respondents filed O.S.No.378 of 1992 against the petitioners herein and two others praying to direct the petitioners and the two others to pay a sum of Rs.11,28,090/- with interest and the suit was decreed. The petitioners filed an appeal suit with an application in M.P.No.3 of 2007 to condone the delay of 1886 days in filing the appeal suit. The appellate court condoned the delay on condition that the petitioner shall deposit 50% of the suit amount and suit costs within a certain period. As such, the petitioners deposited the amount but belatedly. So, the appeal suit was not numbered. After compliance along with condone delay petition it was represented on 08.09.2011. Due to personal inconvenience, the case was not dealt with properly by the first petitioner. Now the first to fifth respondents have taken steps

for arresting the petitioners, therefore CMP No.3173 of 2017 to restore M.P.No.3 of 2007 and direct the registry to number the A.S. has been filed and the same is pending after ordering notice to the other side. Now, the respondents have got the order of arrest dated 05.12.2016 against the petitioners in Execution petition against which the petitioner have filed this Civil Revision Petition.

3. It is seen from the counter filed by the petitioner that counter affidavit has been filed before Executing Court only on 09.10.2016. The petitioner has raised the same contention before this Court as well by stating that the appeal suit is pending before this Court. As rightly ordered by the court below i.e. the Executing Court, even this court cannot entertain the Civil Revision Petition. It is for the petitioner to approach the appellate forum and seek relief.

4. In view of the above said circumstances, this court finds no error or illegality in the order passed by the court below and the same is liable to be dismissed.

D.KRISHNAKUMAR.J,

lok

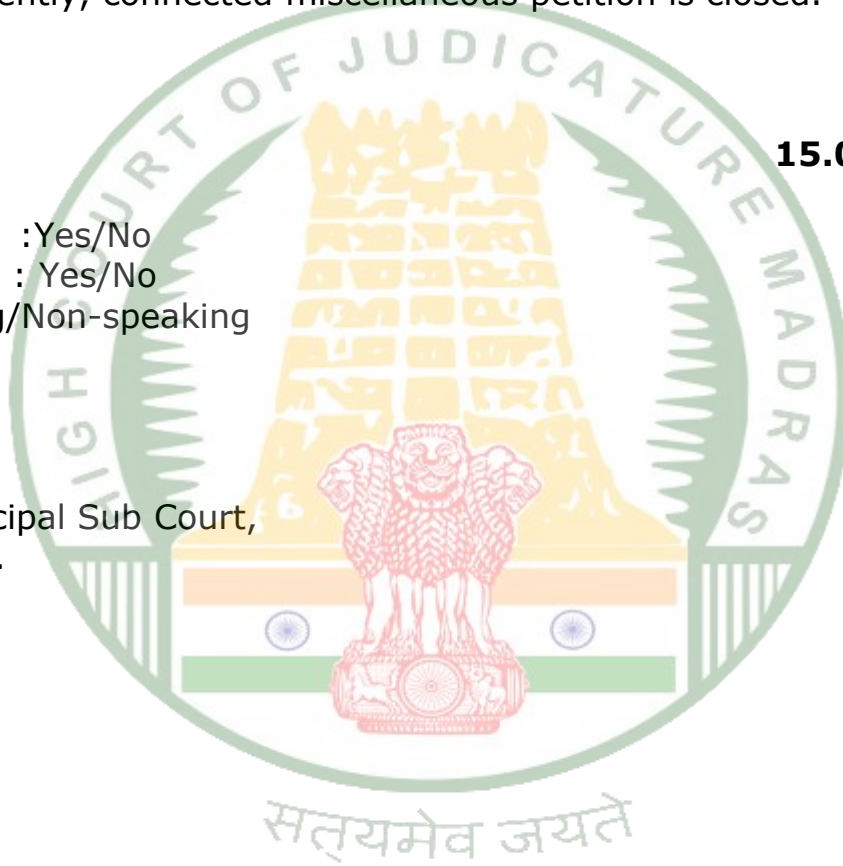
5. Accordingly, the Civil Revision Petition is dismissed.

Consequently, connected miscellaneous petition is closed. No costs.

15.06.2017

Index :Yes/No
Internet : Yes/No
Speaking/Non-speaking
lok

To
The Principal Sub Court,
Tiruppur.



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