

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD) NO.1457 OF 2017

AND

CMP NO.6772 OF 2017

Balya Narmada
Represented by her Power Agent
B.Sathyanarayan

... Petitioner

Vs.

1.M.Sivasankar
2.S.Mahendran
Ponnusamy (Deceased)

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, against the order passed in I.A.No.132 of 2016 in O.S.No.10590 of 2010 dated 10.03.2017, passed by the learned XVIII Additional Judge, City Civil Court, Chennai.

For Petitioner : Mr.P.B.Ramanujam
For Respondents : Mr.V.Chandrakanthan

ORDER

This Civil Revision Petition is directed against the order passed by the learned XVIII Additional Judge, City Civil Court, Chennai, in I.A.No.132 of 2016 in O.S.No.10590 of 2010, condoning the delay of 884 days in filing the petition to restore I.A.No.15 of 2013 in O.S.No.10590 of 2010.

2. The suit is for specific performance to execute the sale deed as per the agreement of sale dated 18.08.2005 and for injunction. It is further stated that another suit filed by the revision petitioner herein in C.S.No.609 of 2008 and an application in O.A.No.1186 of 2010 are also pending. During the pendency of the suit, the suit filed by the first respondent was dismissed for default. Thereafter, he filed a petition to condone the delay of 884 days in filing the petition to restore I.A.No.15 of 2013 in O.S.No.10590 of 2010. Considering the pendency of the other suit and with an intention to decide the suit on merits rather than on technicalities, the Trial Court has allowed the application on payment of cost of Rs.3000/- each to the respondents. The petitioner has complied with the condition and tendered the cost to the respondents and it was

refused. Now that, the revision petitioner has challenged the order passed by the Trial Court in condoning the delay.

3. It is well settled that instead of harping on technicalities, it is better to do substantial justice on merits of the case. It is the case for specific performance and if the application is rejected, it may cause serious prejudice to the litigant. When a connected matter is pending on the same issue, it is always better to permit the parties to contest the case on merits. Therefore, this Court is of the opinion that the order passed by the Trial Court in condoning the delay on terms is reasonable.

4. Accordingly, this Court grants two weeks time to the respondent / petitioner for making payment of costs awarded by the Trial Court to the respondents. A further direction is issued to the Trial Court to dispose of the interlocutory application, within a period of three weeks from the date of receipt of a copy of this order and dispose of the suit itself within a period of six months thereafter.

5. The Civil Revision Petition is dismissed with the above observation and direction. No costs. Consequently, connected civil miscellaneous petition is closed.

18.07.2017

Index : Yes/No
Internet : Yes/No
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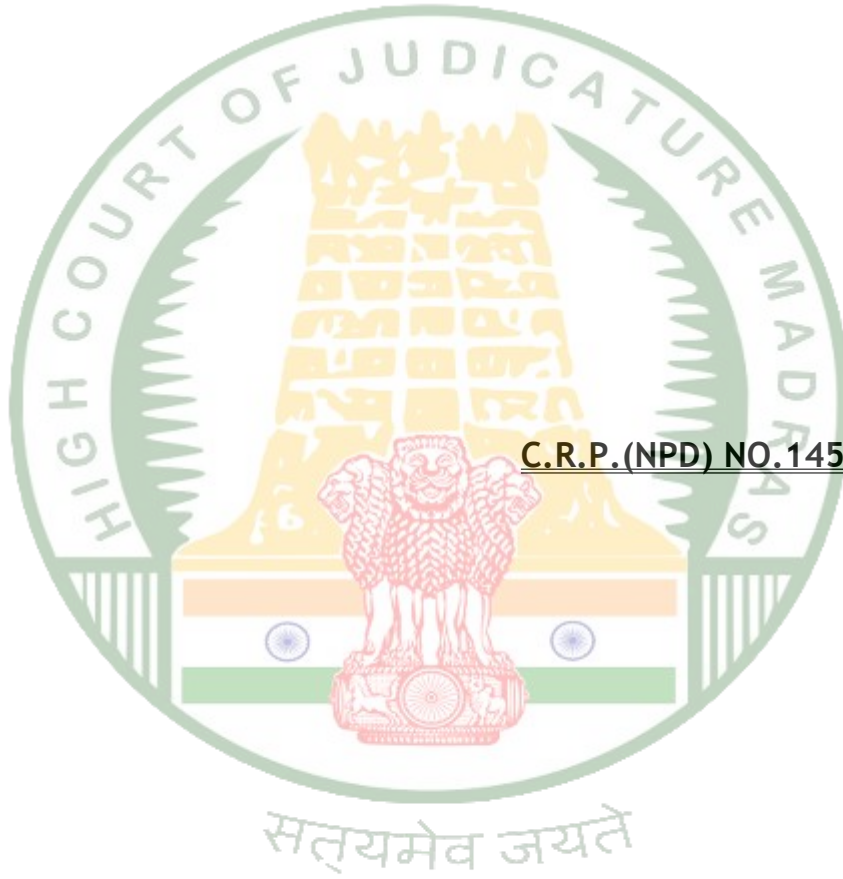
The XVIII Additional Judge
City Civil Court
Chennai.



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M.GOVINDARAJ, J.

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