

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2017

C O R A M

THE HONOURABLE MR.JUSTICE M. GOVINDARAJ

C.R.P.(NPD) No.2393 of 2017

Mathiazhagan

... Petitioner

Vs.

Pachiammal

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, as against the fair and decretal order dated 17.03.2017 in I.A.No.25 of 2017 in I.A.No. 21 of 2016 in unnumbered A.S.No. of 2016 on the file of the learned Sub Court, Rasipuram.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.M.Vijaya Mehamath
Mr.S.Prakash

सत्यमेव जयते

ORDER

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The defendant is the Civil Revision Petitioner. Having suffered a decree he filed an appeal against the decree with an application to condone delay. In the condone delay petition, he has wrongly mentioned the delay as 292 days, but the actual delay is 413

days. In this regard, he filed an IA seeking amendment to the number of days in filing the Petition to condone delay. The said petition was dismissed by the Trial Court, against which, the petitioner preferred the Civil Revision Petition.

2. The learned counsel for the respondent vehemently contended that the petitioner has deliberately mentioned the incorrect number of days delay and refused to correct it through counter affidavit. There is deliberate intention on the part of the petitioner to protract the proceedings and therefore, the amendment sought for shall not be ordered.

3. The Hon'ble Supreme Court and this Court in many Judgments have observed that substantial Justice be done on merits rather than relying on technicalities.

4. Considering the facts and circumstances of the case, by shutting the doors, the petitioner shall not be deprived of his rights. Therefore, instead of relying on technicalities, a direction is hereby issued to the

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Trial Court, while, setting aside the order passed in I.A.No. 25 of 2017 in I.A.No. 21 of 2016 dated 17.03.2017, to dispose of the matter as expeditiously as possible. If the Trial Court comes to a conclusion that the delay in filing the appeal can be condoned, the Appeal shall be disposed of within a period of three months from the date of receipt of a copy of this order.

5. The learned Counsel for the respondent would submit that the respondent is a senior citizen, aged about 71 years, woman, and she has been unnecessarily harassed on vexatious suit.

6. Considering the plight of the respondent this Court decides to allow the Civil Revision Petition with compensatory cost of Rs.10,000/- (Rupees Ten Thousand Only) payable to the respondent within a period of three weeks from the date of receipt of copy of this order, in default, the order passed in I.A.No.25 of 2017 in I.A.No. 21 of 2016 dated 17.03.2017, would be revived and confirmed, and the further proceedings can be taken up by the respondent in accordance with law.

M. GOVINDARAJ, J.
stm

7. Accordingly, the Civil Revision Petition is allowed with the above directions.

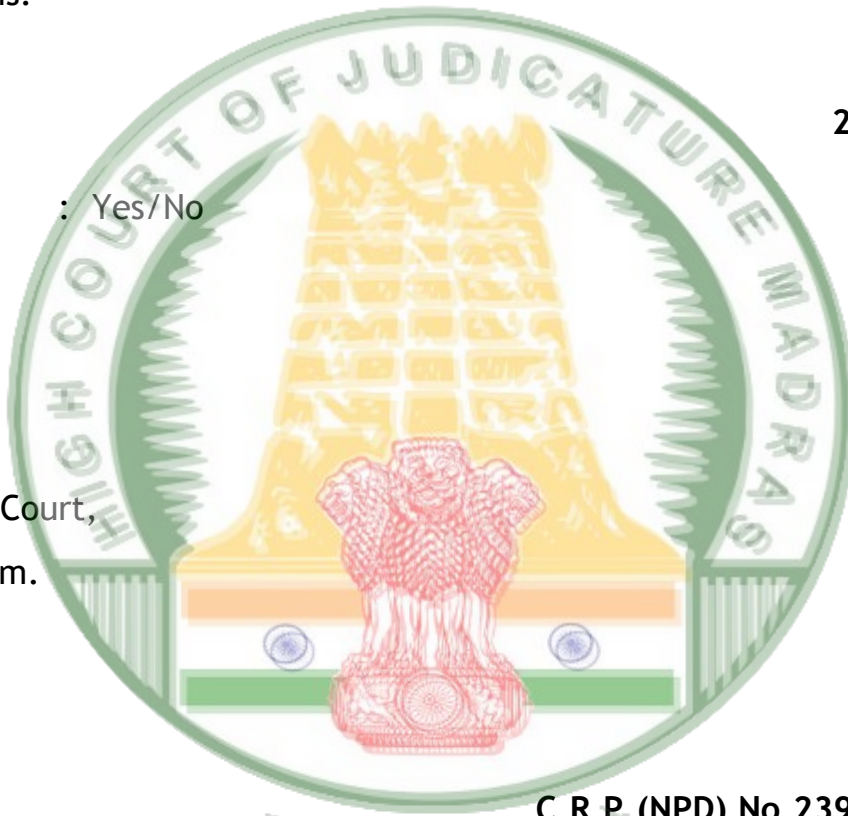
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jer/stm
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: Yes/No

To

The Sub Court,
Rasipuram.



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