

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2017

C O R A M

THE HONOURABLE Mrs.JUSTICE PUSHPA SATHYANARAYANA

C.M.A.No.565 of 2017

and

CMP.No.3372/2017

1. Chinnarasu

2. Amsavally

... Appellants/Petitioners

-Vs.-

1. A.Senthilkumar

2. The Government of Union Territory of Puducherry,
Puducherry rep by its Chief Secretary
Government of Puducherry
Puducherry

3. The Collector
Revenue Department,
Puducherry

... Respondents/Respondents

Civil Miscellaneous Appeal filed under Order 43 Rule 1 (t) of Civil Procedure Code against the fair and decretal order in I.A.No.1985 of 2016 in A.S.No.16 of 2015 dated 01.02.2017 on the file of the Principal District Judge, Puducherry.

For petitioner Mr.N.Suresh

For respondent 1... Mr.C.Ramesh

JUDGMENT

The defendant, who suffered a decree in O.S.No.2 of 2007 on the file of the Principal Sub Court, Puducherry, has preferred appeal in A.S.No.16 of 2015. The appeal was posted for hearing on November 2015 and at the instance the defendants, it had been adjourned from time to time and it was posted finally on 07.09.2016 for arguments. Even on the said date, there was no representation for the appellant either in person or through counsel. Therefore, the appeal was dismissed on 07.09.2016, by observing as follows:-

"The appellant called absent. Sufficient opportunity granted. Appeal dismissed for default with costs.".

2. Aggrieved by the said order of dismissal, the above appeal has been filed. The reason stated in the affidavit is that when the matter was called for arguments, the learned counsel for the appellant was not present to represent the case, as he just left the Court for personal reasons. There is no other document filed by the learned counsel to support the case of the appellant.

3. As pointed out by the learned Counsel for the plaintiff in the counter affidavit, the matter has been adjourned at the instance of the appellant for more than a year. Since time was granted finally by the Court below and taking advantage of the same, he allowed it to be dismissed for default. Though there is no reason given by the appellant for restoring the appeal, considering the fact that the restoration application has been filed within two days from the date of dismissal, the appellant is directed to advance the argument in the appeal on the date to be fixed by this Court, which would be the last and final chance for him to argue the appeal. If the appellant either does not appear before the Court or seeks further time, it is open to the learned Principal District Judge, Puducherry to pass appropriate orders.

4. Accordingly, with the consent of both the counsels, the date of hearing of the appeal in A.S.No.16 of 2015 is fixed on 15.03.2017. The learned Principal District Judge, Puducherry is directed to dispose of the appeal on or before 30.04.2017. It is made clear that no further time would be granted to the appellant. The Civil Miscellaneous Appeal is disposed of. No costs. Consequently Mps petition is closed.

Sd/-

Assistant Registrar

//True Copy//

सत्यमेव जयते

Sub Assistant Registrar

srn

To

1 The Principal District Judge, Puducherry.

2 The Chief Secretary
Government of Puducherry
Puducherry

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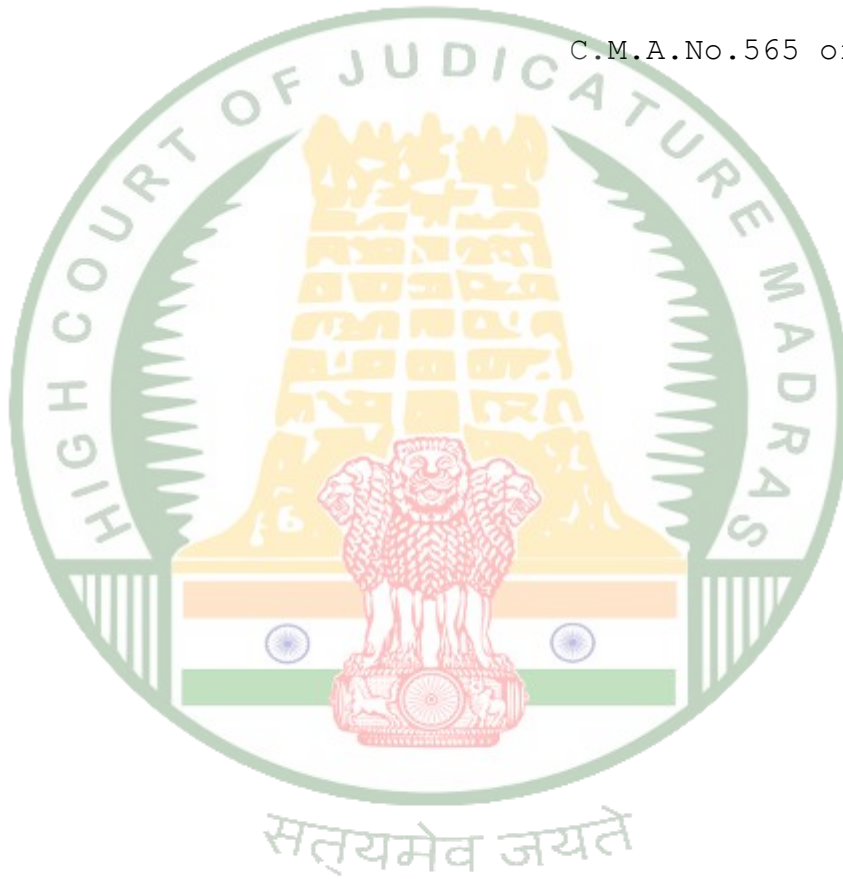
3 The Collector,
Revenue Department
Puducherry

+1cc to Mr.N.Suresh,Advocate sr.14451(10/3/2017)

+1cc to Mr.C.Ramesh,Advocate sr.14540(10/3/2017)

nm(CO)
md(08/03/2017)

C.M.A.No.565 of 2017



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