

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.12.2017

CORAM:

**THE HONOURABLE MS.JUSTICE V.M.VELUMANI**

C.R.P.(NPD)Nos.326 & 327 of 2015

1.Kanagasundaram .. 1<sup>st</sup> Petitioner both C.R.Ps'

2.Chitra Devi .. 2<sup>nd</sup> petitioner in C.R.P.No.327/  
2015

Vs.

Sankar .. Respondent in both C.R.Ps'

**COMMON PRAYER:** Civil Revision Petitions filed under Article 227 of the Constitution of India against the fair and decretal orders dated 05.07.2014 made in I.A.No.25 of 2013 in A.S.No.4 of 2008 & I.A.No.97 of 2013 in I.A.No.26 of 2013 in A.S.No.5 of 2008 on the file of the Principal Sub Court, Puducherry.

For Petitioners : Ms.R.Meenal  
(in both C.R.Ps')

For Respondent : M/s.G.Sumitha  
for Mr.I.Abrar MD. Abdulla

**COMMON ORDER**

These Civil Revision Petitions are filed against the fair and decretal orders dated 05.07.2014 made in I.A.No.25 of 2013 in A.S.No.4 of 2008 & I.A.No.97 of 2013 in I.A.No.26 of 2013 in

<http://www.judis.nic.in> A.S.No.5 of 2008 on the file of the Principal Sub Court, Puducherry.

2.The issues involved in both the Civil Revision Petitions are interlinked and therefore, disposed of by this common order.

3.The petitioners are appellants and respondent is the respondent in A.S.Nos.4 and 5 of 2008 filed against the judgment and decree dated 18.09.2007, made in O.S.Nos.1196 of 2005 & 842 of 2004. Both the appeals were dismissed on 18.11.2010 for default.

4.The petitioner in C.R.P.No.326 of 2015 filed I.A.No.25 of 2013 in A.S.No.4 of 2008 to condone the delay of 774 days in filing the application to restore the appeal and stated that his counsel was engaged in Court at Cuddalore and therefore, there was no representation on behalf of the petitioner. The first appeals were called and due to their non-appearance, the appeals were dismissed.

5.The petitioners in C.R.P.No.327 of 2015 filed I.A.No.26 of 2013 in A.S.No.5 of 2008 to condone the delay of 774 days in filing the application to restore the appeal. The said application in I.A.No.26 of 2013 was dismissed for default on 25.10.2013.

6.The petitioners in C.R.P.No.327 of 2015 filed I.A.No.97 of 2013 to restore I.A.No.26 of 2013 which was dismissed for default on 25.10.2013. According to the petitioners in I.A.No.97 of 2013, their counsel wrongly noted the date of hearing as 19.11.2013 and therefore, they could not be present in the Court when the I.A was called on 25.10.2013 and prayed for restoration of I.A.No.26 of 2013.

7.The respondent filed separate counter affidavits in I.A.Nos.25 of 2013 & 97 of 2013 and opposed the said applications, submitting that the applications were posted for more than 42 hearings to enable the petitioners to argue the appeals. In all the hearings, there was no representation for the petitioners either in person or through Advocate. Only after giving ample opportunities to the petitioners, the appeals were dismissed for default. The petitioners have not given any valid reason for condonation of delay and prayed for dismissal of the applications.

8.The learned Judge, considering the averments in the affidavits, counter affidavits and the fact that appeals were adjourned for more than 42 occasions to give opportunity to the petitioners to put forth their case, dismissed both the applications.

9. Against the orders of dismissal dated 05.07.2014 made in I.A.No.25 of 2013 in A.S.No.4 of 2008 & I.A.No.97 of 2013 in I.A.No.26 of 2013 in A.S.No.5 of 2008, the present two Civil Revision petitions are filed by the petitioner/petitioners.

10. Heard the learned counsel for the petitioners as well as the respondent and perused the materials available on record.

11. The petitioner in C.R.P.No.326 of 2015 has stated that his counsel was engaged in the Court at Cuddalore and therefore, he could not be present on the date of hearing. The petitioners in C.R.P.No.327 of 2015 have stated that they were under the impression that both the appeals and applications were posted on the same date, 19.11.2013 and hence, they could not be present on the date of hearing i.e., on 25.10.2013. From the materials on record, it is seen that the petitioners have not given any reason for the delay in filing applications to restore appeals as well as applications. The learned Judge, considering the fact that the petitioners did not prosecute the appeals inspite of number of opportunities being given, dismissed the appeals. Considering all the above facts, I hold that the petitioners have failed to explain the

delay and the learned Judge has rightly dismissed both the applications. There is no illegality or irregularity warranting interference by this Court with the orders of the learned Judge dated 05.07.2014 made in I.A.No.25 of 2013 in A.S.No.4 of 2008 & I.A.No.97 of 2013 in I.A.No.26 of 2013 in A.S.No.5 of 2008.

12.In the result, these Civil Revision Petitions are dismissed.

No costs.

18.12.2017

Internet: Yes/No  
Index: Yes/No  
gsa

To

The Principal Subordinate Judge,  
Puducherry.

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**V.M.VELUMANI, J.**

gsa



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