

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P.No.655 of 2015

and

M.P No.1 of 2015

Sadique

.... Petitioner

vs.

Azimuddin
117, Amman Koil Street
Orleanpet
Puducherry- 605 005.

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 19.01.2015 made in I.A. SR. 274 of 2015 in R.C.A. No.22 of 2012 on the file of Principal District Judge, Puducherry.

For Petitioner : Mr. A.V. Arun

For respondent : Mr. M. Ganesh

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ORDER

This Civil Revision Petition arises against the order dated 10.01.2015 made in I.A. SR. 274 of 2015 in R.C.A. No.22 of 2012 on the file of Principal District Judge, Puducherry.

2. Learned counsel for the petitioner submitted that the petitioner has filed an application in E.P. No. 05/2014 in HRCOP No. 34 of 2010 to set aside the exparte order dated 11.07.2014, passed against the petitioner. The aforesaid application was returned on the ground that the application is barred by limitation.

3. According to the petitioner, the Executing Court has not sought for any reasons for maintainability of the Application. However, the Executing Court has stated that the application itself is barred by limitation and hence this Revision Petition has been filed.

4. Learned counsel for the respondents would submit that it is always open to the revision petitioner to represent the stay application and to explain that the said application is maintainable as per law. Instead of that, the petitioner has filed the present Civil Revision Petition.

5. Heard the submissions made by the learned counsel for the petitioner and the respondent.

6. The revision petitioner has filed the present civil

revision petition against the order passed in the execution petition in E.P. No.5 of 2014 in H.R.C.O.P No.34/2010. The said application was returned by the Executing Court stating that the application is barred by limitation. On perusal of the documents, it is found that the petitioner has not re-presented the said application, to the satisfaction of the Executing Court, to be considered as maintainable and is under law. Learned counsel for the petitioner would submit that since the Executing Court has returned the application on the ground of barred by limitation, the present Civil Petition has been filed. Further, the petitioner relying upon the decision of this Court, in the case of **N. Rajendran vs. Shriram Chits Tamil Nadu Pvt. Ltd., reported in (2011) 8 MLJ 12**, wherein, in a similar situation, the petition was held maintainable, by the Executing Court.

7. By considering the facts and circumstances of the case, without going into the merits, this Court directs the petitioner to represent the Application, within a period of two weeks from the date of receipt of a copy of this order. Thereafter, the Executing Court is directed to number the said application, if it is otherwise in order and to consider the application including the maintainability of the petition and to pass orders on merits, in accordance with law, within a period of eight weeks thereto, after providing an opportunity to the parties

concerned. On instructions, both the counsel undertakes to co-operate with the proceedings before the Execution Court.

8. In the result, the Civil Revision Petition is allowed as indicated above. Consequently, the Connected Miscellaneous Petition is closed. No order as to costs. Registry is directed to return the original papers filed in the Civil Revision Petition, to the learned counsel for the petitioner, after obtaining a copy of the same.

09.03.2017

Index : yes / no

[Issue order copy within one week]

avr

To
The Principal District Judge,
Puducherry.

D.KRISHNAKUMAR, J.



C.R.P.(NPD) No.655 of 2015
and
M.P No.1 of 2015

09.03.2017

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CRP (NPD) No.655 of 2015
and
MP.No.1 of 2015

D.KRISHNAKUMAR,J

At the instance of the learned counsel on both sides, the matter is posted today under the caption "being mentioned".

2. It was brought to the notice of this Court that out of the two connected matters in CRP (NPD) No.8 of 2015 and CRP (NPD) No.655 of 2015, there is a typographical error in the prayer portion of the order dated 09.03.2017, passed in this revision petition. It is also submitted that nothing survives in this revision petition and hence prayed to dismiss the revision petition as infructuous.

3. Accepting the submissions of the learned counsel for the petitioner and the learned counsel for the respondent, the order passed by this Court on 09.03.2017 in this revision petition, may be read as follows :

" The petitioner has filed this revision to set aside the order dated 19.01.2015 made in I.A.No. (unnumbered) of 2015 (SR.No.274 of 2015) in R.C.A.No.22 of 2012 on the file of the Principal District Judge, Puducherry .

2. Heard Mr.A.V.Arun, the learned counsel appearing for the petitioner and Mr.M.Ganesh, the learned counsel appearing for the respondent.

3. It is brought to the notice of this Court by the learned counsel for the respondent that the appeal filed by the respondent in RCA.No.22 of 2012 on the file of the Principal District Judge, Puducherry was allowed on merits, after hearing both the parties and hence, nothing survives for adjudication in this present Civil Revision Petition. Learned counsel for the petitioner agreed to the said submission.

4. In view of the submission made, the Civil Revision Petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petition is closed. "

4. Registry is directed to prepare a fresh order incorporating the necessary corrections.

11.04.2017

[Issue order copy on 18.07.2017]
ds/avr

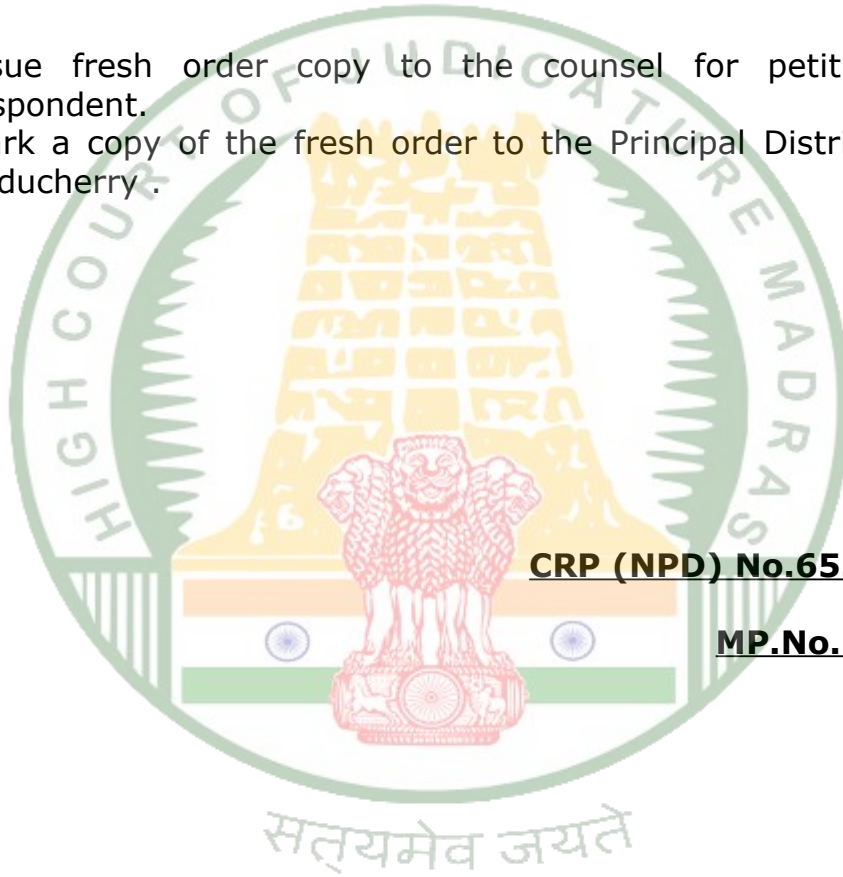
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D.KRISHNAKUMAR,J

ds/avr

Note :

1. Issue fresh order copy to the counsel for petitioner and respondent.
2. Mark a copy of the fresh order to the Principal District Munsif, Puducherry.



CRP (NPD) No.655 of 2015
and
MP.No.1 of 2015

WEB COPY **11.04.2017**