

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No.8 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 10.10.2014 made in unnumbered EA.No... of 2014 in E.P.No.5 of 2014 in RCOP.No.34 of 2010 on the file of the Principal District Munsif, Puducherry .

For Petitioner : Mr. A.V. Arun

For respondent : Mr. M. Ganesh

ORDER

This Civil Revision Petition arises against the order dated 10.10.2014 made in unnumbered EA.No... of 2014 in E.P.No.5 of 2014 in RCOP.No.34 of 2010 on the file of the Principal District

<http://www.judis.nic.in> Munsif, Puducherry .

2. Learned counsel for the petitioner submitted that the petitioner filed an application to set aside the exparte order dated 11.07.2014 passed in E.P. No. 05/2014 in HRCOP No. 34 of 2010, against the petitioner. The said 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 said application and to explain that the same 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.

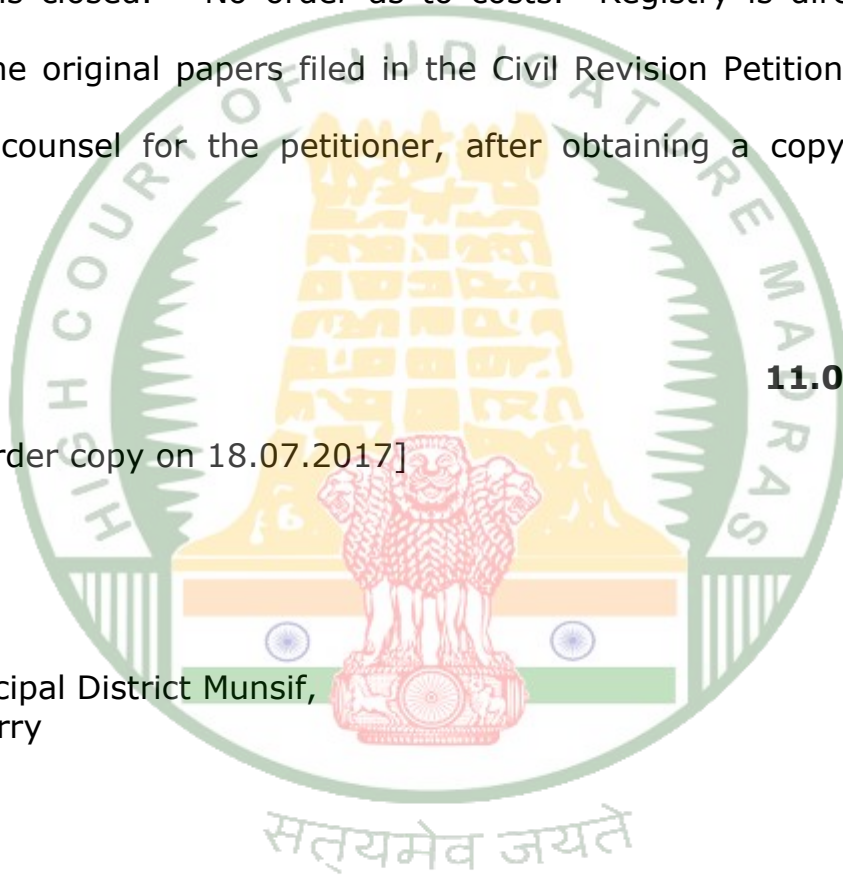
8. In the result, the Civil Revision Petition is allowed as indicated above. Consequently, the Connected Miscellaneous Petition is closed. No order as to costs. Registry is directed to return the original papers filed in the Civil Revision Petition, to the learned counsel for the petitioner, after obtaining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

11.04.2017

[Issue order copy on 18.07.2017]
ds/ avr

To

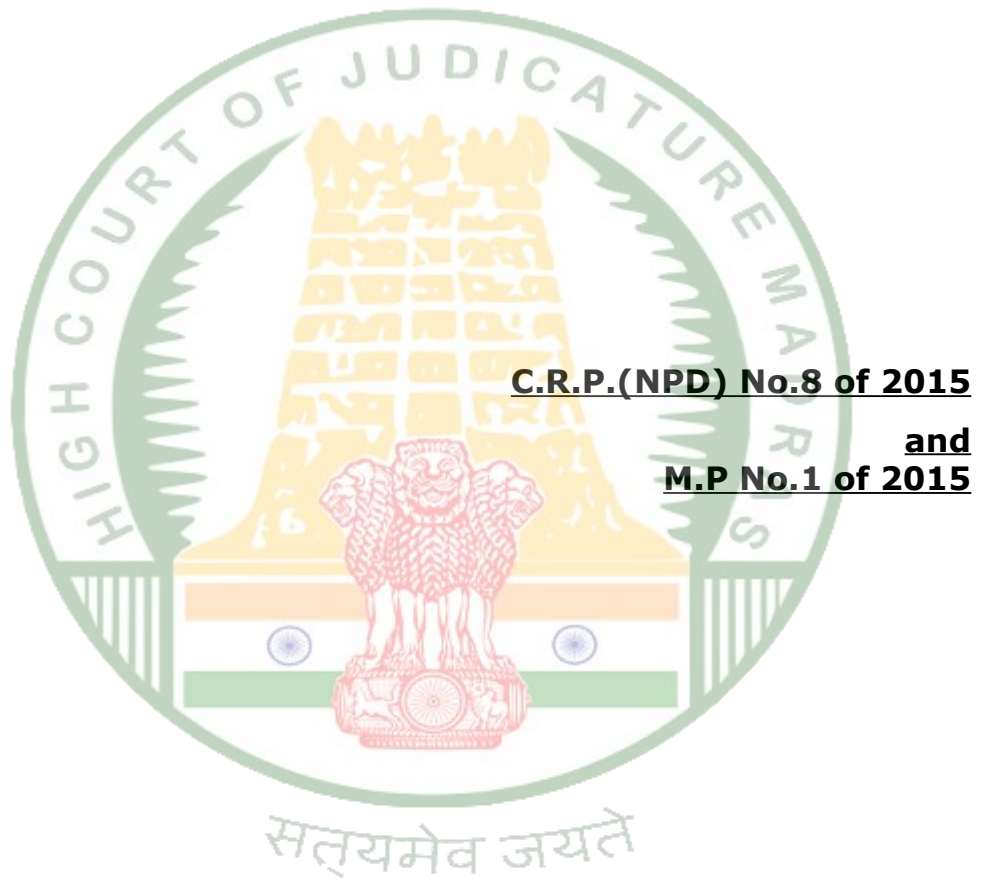
The Principal District Munsif,
Puducherry



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D.KRISHNAKUMAR, J.

ds/avr



11.04.2017

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