

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.878 & 879 of 2015

1.Ramesh Kumar
2.Bhanumathi
3.Rajeshwari

... Petitioner in both CRPs

Vs.

The Commissioner,
Salem City Municipal Corporation

... Respondent in both CRPs

COMMON PRAYER: Civil Revision Petitions filed Section 115 of CPC to set aside the order of the learned Principal District Judge, Salem dated 11.07.2012 in I.A.Nos.79 & 80 of 2012 in I.A.No.24 & 25 of 2010 respectively in unnumbered CMA No. NIL of 2010.

For Petitioners : Mr.R.Syed Mustafa
in both CRPs

For Respondent : Ms.K.Bhuvaneswari
in both CRPs

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COMMON ORDER

These Civil Revision Petitions are filed to set aside the order of the learned Principal District Judge, Salem dated 11.07.2012 made in I.A.Nos.79 & 80 of 2012 in I.A.No.24 & 25 of 2010 respectively in unnumbered CMA Nos.NIL of 2010.

2. The petitioners filed appeal against the order of the Appellate Tribunal with regard to payment of half-yearly property tax levied by the respondent Corporation. The petitioners filed two applications in I.A.Nos.24 & 25 of 2010 alongwith appeal, to condone the delay of 222 days in filing the said appeal. The respondent filed counter opposing the said applications. Both the applications were allowed on payment of cost of Rs.350/- each payable by the petitioners to the respondent, on or before 30.06.2011. However, the petitioners failed to pay the said cost and both the applications were dismissed for default on 30.06.2011. The petitioners have come out with the present applications in I.A.Nos.79 & 80 of 2012 in I.A.Nos.24 & 25 of 2010 in unnumbered CMA Nos.Nil of 2010 to condone the delay of 226 days in restoring I.A.Nos.24 & 25 of 2010.

3. According to the petitioners, the first petitioner was suffering from jaundice and therefore he could not contact his Advocate to pay the cost and restore the applications in time. In the meantime, the 4th petitioner by name Sudharsanadevi died. The petitioners 2 and 3 were not aware of the stage of the case and prayed for condoning the delay in restoring the applications filed to condone the delay in filing the appeal. The respondent Corporation filed counter and opposed the said applications. The learned Judge, dismissed both the applications on the ground that the petitioners have not given any valid and sufficient reasons for condoning the delay in restoring the applications.

4. Against the said order of dismissal dated 11.07.2012 in I.A.Nos.79 & 80 of 2012 in I.A.No.24 & 25 of 2010 respectively in unnumbered CMA Nos.NIL of 2010, the present Civil Revision Petitions are filed by the petitioners.

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

6. From the materials available on record, it is seen that the petitioners have filed applications to condone the delay in restoring the applications in I.A.Nos.24 & 25 of 2010 filed to condone the delay in filing the appeal, which was dismissed for default on 30.06.2011.

7. Considering the fact that I.A.Nos.24 & 25 of 2010 were allowed by the learned Judge, on payment of cost of Rs.350/- payable by the petitioners to the respondent, the petitioners filed appeals challenging the order of the respondent with regard to payment of half-yearly property tax and the contention of the learned counsel for the petitioners that applications may be allowed on payment of further costs, in order to give an opportunity to the petitioners to put forth their case on merits, both these Civil Revision Petitions are allowed on payment of cost of Rs.10,000/- each payable by the petitioners to the respondent, within a period of two (2) weeks from the date of receipt of a copy of this order.

8. The petitioners are directed to produce the receipts for having paid the cost of Rs.10,000/- in each Civil Revision Petitions to the respondent, before the learned Judge and on production of

such receipts, the learned Judge is directed to number the appeal, if it is otherwise in order and hear the appeals on merits and pass orders, in accordance with law. If the petitioners fail to pay the cost, as ordered by this Court, within the stipulated period, both the Civil Revision Petitions shall stand dismissed automatically without further reference to this Court, confirming the order of the learned Judge dated 11.07.2012 in I.A.Nos.79 & 80 of 2012 in I.A.No.24 & 25 of 2010 respectively in unnumbered CMA No. NIL of 2010.

9. In the result, both the Civil Revision Petitions are allowed.

No costs.

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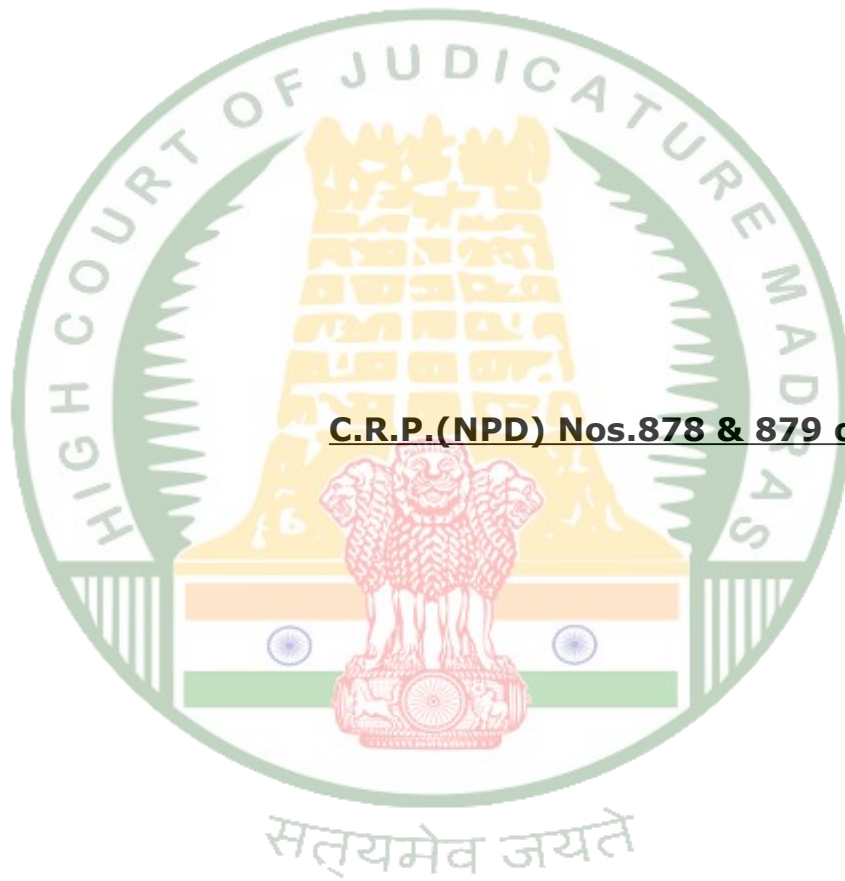
The Principal District Judge,
Salem.

18.12.2017

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V.M.VELUMANI, J.

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