

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2017

C O R A M

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(NPD) No.3577 of 2016

Mohanambigai

... Petitioner

Vs.

1.Rajamani Devar

2.P.Rajaraman

3.P.Venkatachalapathy

4.The District Collector,
Collector Office,
Coimbatore-18.

5.The Tashildar,
Tashildar Office,
Pollachi.

6.A.Subramanian

7.N.Ramalingam

8.R.Kuppusamy

9.C.Duraisamy

10.Nataraj Devar

... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, to set aside the decree and judgment order dated 21.09.2016 passed in C.M.A.No.4 of 2016 on the file of the III Additional District and Sessions Judge, Coimbatore confirming the order and decretal order dated 07.01.2016 passed in I.A.No.637 of 2015 in O.S.No.157 of 2009 on the file of the Subordinate Judge, Pollachi.

For Petitioner	: Mr.R.Baskaradoss
For RR1 to 3 & 6 to 9	: Mr. M.Suresh
For RR4 & RR5	: Mr.T. Jayaramaraj
	Government Advocate (CS)
For RR10	: No appearance

ORDER

The learned counsel for the petitioner submits that the revision petitioner has filed the suit in O.S.No.157 of 2009 for declaration and consequential relief of permanent injunction. In the aforesaid suit, the revision petitioner was unable to appear before the court on the hearing date and consequently the suit was dismissed for default.

2. The revision petitioner has filed an appeal under Order IX Rule 9 CPC in CMA.No.4 of 2016, before the III Additional

District and Sessions Judge, Coimbatore for restoration of the suit and the same was dismissed and was confirming the order passed by the trial Court. Hence, the petitioner has filed the present Civil Revision Petition before this Court.

3. Mr. M.Suresh, learned counsel appearing for the respondents would submit that the suit filed by the plaintiff in the year 2009, though the plaintiff was not vigilant to prosecute the case when the matter is taken up for hearing. Hence, both the Courts had rightly rejected the contention of the petitioner.

4. Heard, the learned counsel for the parties and perused the materials available on record.

5. According to the learned counsel for the petitioner, the instant application has been filed by the revision petitioner to set aside the dismissal order passed by the Courts below and to restore the suit. The petitioner was not instructed by the counsel who appeared before the Court, therefore, the petitioner could not appear before the Court below, resulting dismissed for default in

the aforesaid suit

6. In **Esha Bhattacharjee Vs. Managing Committee of Raghunathpur Nafar Academy [2013 (12) SCC 649]**. The Hon'ble Supreme Court of India has held that when the reason stated for the delay is lack of knowledge, there shall be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay. Therefore, this Court has no hesitation to set aside the orders passed by the Courts below.

7. In the facts and circumstances of the case, and the order passed in I.A.No.637 of 2015 in O.S.No.157 of 2009, and the order passed in C.M.A.No.4 of 2016 are set aside. Consequently, the Civil Revision Petition stands allowed. There shall be no order as to costs. The suit is the year 2009, the trial Court is directed to dispose of the above suit within a period of six months from the date of receipt of a copy of this order.

04.12.2017

Index : Yes/No

Internet : Yes/No

rpl

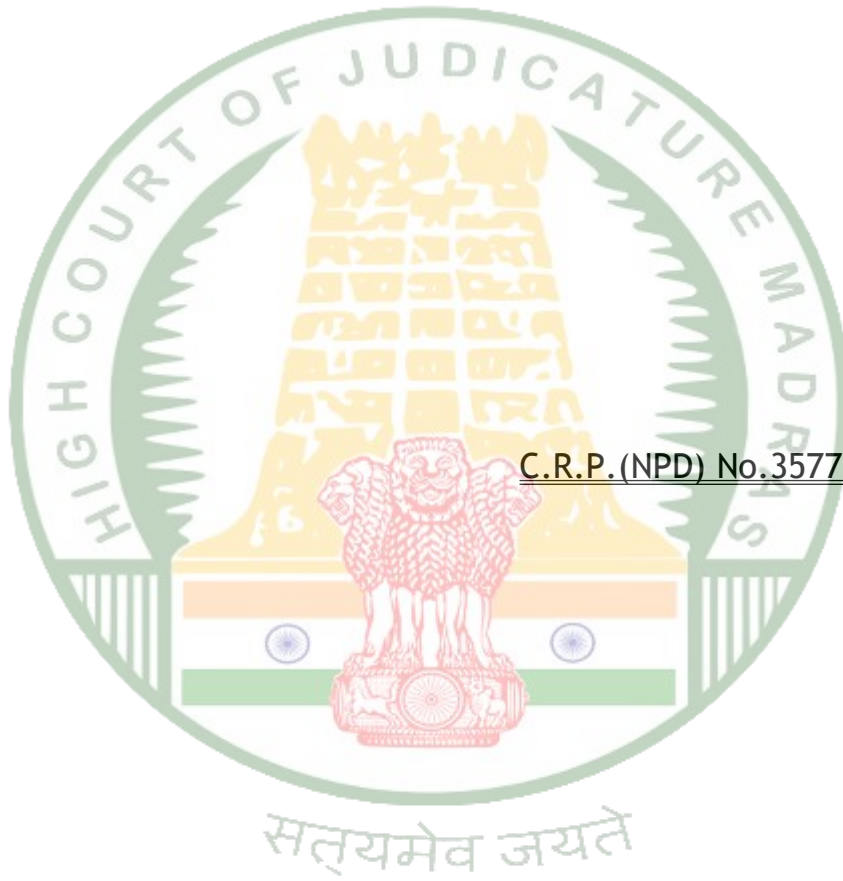
To

1. The III Additional District and Sessions Judge,
Coimbatore.
2. The District Collector,
Collector Office,
Coimbatore-18.
3. The Tashildar,
Tashildar Office,
Pollachi.



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D.KRISHNAKUMAR,J.
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