

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.09.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Rev.Appl.No.198 of 2013
& M.P.No.1 of 2013
in C.R.P.(NPD).No.276 of 2012

S.Rajkumar

.. Petitioner

Vs.

Suseela

.. Respondent

PRAYER: Review Application is filed under Order 47 Rule 1 and Section 114 of C.P.C., to review the order dated 04.06.2013 made in C.R.P.(NPD)No.276 of 2012.

For Petitioner : M/s.A.Malath Devapriyam

For Respondent : Mr.N.Manokaran

ORDER

The Review Application is filed to review the order dated 04.06.2013 made in C.R.P.(NPD)No.276 of 2012.

2. The review petitioner is the defendant and respondent is the plaintiff in O.S.No.120 of 1998. The respondent filed the said

suit for specific performance of sale agreement. The said suit was decreed exparte on 28.04.2005. The petitioner filed I.A.No.307 of 2010 to condone the delay of 1733 days in filing the application to set aside the exparte decree dated 28.04.2005. A conditional order was passed on 14.06.2011 directing the petitioner to pay the cost of Rs.5,000/-.

3. Against the said order dated 14.06.2011 made in I.A.No.307 of 2010, the respondent filed C.R.P.(NPD)No.276 of 2012.

4. This Court by order dated 04.06.2013 considering various judgments, allowed the said civil revision petition and set aside the impugned order dated 14.06.2011 made in I.A.No.307 of 2010 in O.S.No.120 of 1998 on the file of the Subordinate Court, Sathyamangalam. This Court by considering number of judgments on this issue held that directing the petitioner to pay a sum of Rs.5,000/- towards cost cannot be justified as reasonable and legally sustainable. This Court in the light of the various decisions referred to in the order also held that there is no bonafide reason available in favour of the petitioner and the lower Court without

considering the accrued right of the respondent has erroneously passed the impugned order prejudice to the rights of the respondent herein.

5. The petitioner is seeking to review the said order on the ground that the petitioner has complied with the conditional order subsequently and the learned Judge allowed the said application and prayed for reconsider the order dated 04.06.2013 made in C.R.P.(NPD)No.276 of 2012 passed by this Court.

6. This Court considering various judgments rendered in this issue has held that the learned Judge erroneously passed conditional order prejudice to the interest of the respondent. In view of the categorical finding and setting aside the order of the lower Court, it is not open to the petitioner to now contend that the conditional order has been complied with and order dated 04.06.2013 must be reviewed. This Court passed orders on merits after hearing the learned counsel for the petitioner and respondent. There is no error in the order passed by this Court to reconsider the same.

7. In the result, the Review Application is dismissed. No Costs. Consequently, connected Miscellaneous Petition is closed.

05.09.2017

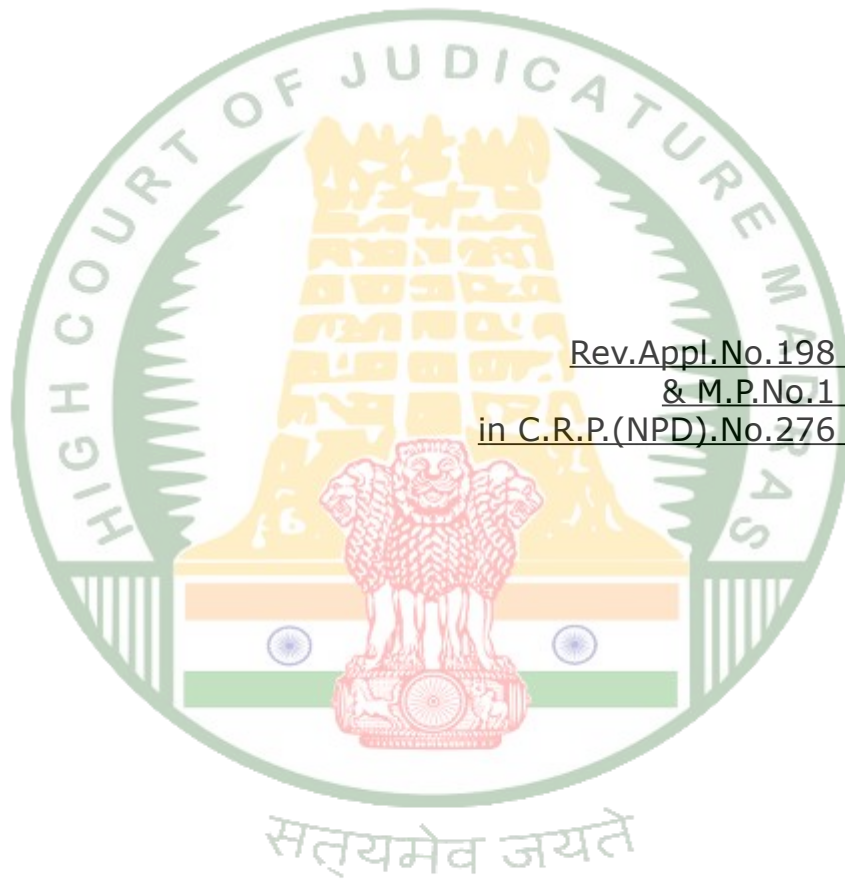
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V.M.VELUMANI,J.

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