

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.08.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

Rev.Appl.No.14 of 2012
in C.R.P.(PD).No.3937 of 2009

Angappa Achary

.. Petitioner

Vs.

G.P.Srinivasan

.. Respondent

PRAYER: Review Petition filed under Order 47 Rule 1 R/W 114 of C.P.C, to review the order dated 01.10.2010 made in C.R.P.(PD)No.3937 of 2009 on the file of this Hon'ble Court.

For Petitioner : Mr.N.Manokaran

For Respondent : Mr.Narayanaswamy

ORDER

This Review Petition has been filed to review the order dated 01.10.2010 made in C.R.P.(PD)No.3937 of 2009.

2.The respondent filed suit for declaration and for recovery of

possession. The suit was decreed exparte. According to the petitioner the learned Judge has not given any reason for holding that review petitioner ought to have filed application to condone the delay of one year in filing the application to set aside the exparte decree. The learned counsel for the respondent submitted that this Court considered the fact that petitioner and his counsel were present on 02.11.2001 and on their request suit was adjourned to 08.11.2001. On that day, there was no representation by the petitioner and his counsel. The suit was decreed. In the circumstances, the petitioner ought to have filed application to condone the delay as the application to set aside the exparte decree was filed after one year. The learned counsel for the respondent further submitted that E.P. was proceeded with, possession was taken and E.P was closed.

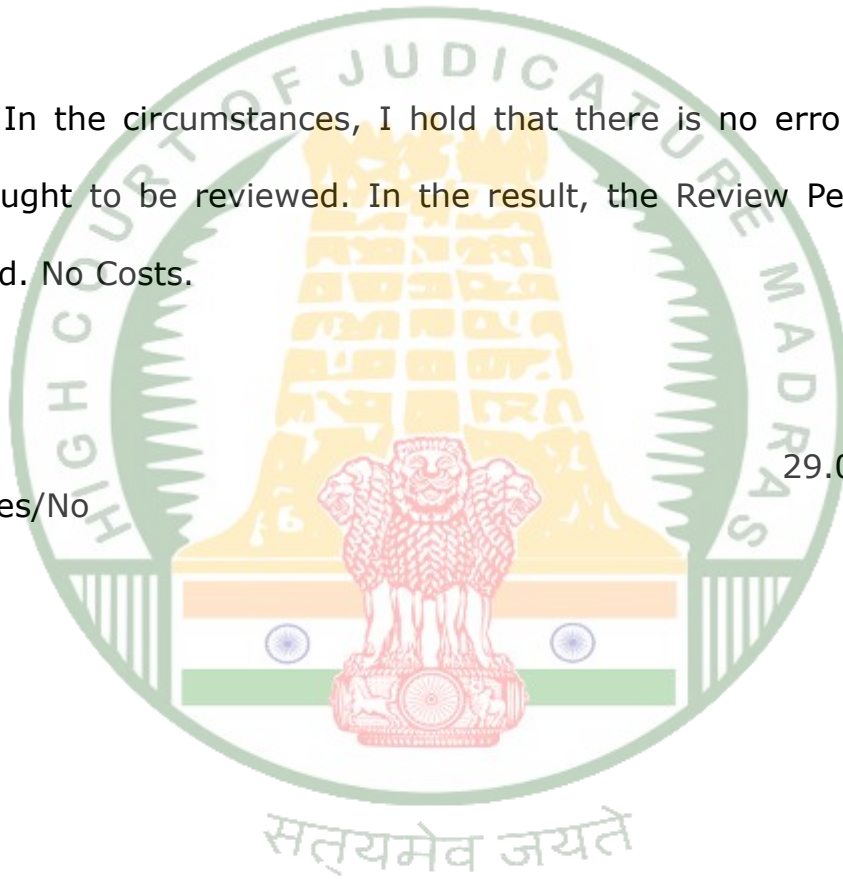
3. A reading of the order sought to be reviewed shows that this Court has taken into consideration that petitioner and his counsel were present on 02.11.2001 and sought for adjournment and at their request suit was posted to 08.11.2001 for trial. On that day due to their absence, suit was decreed. This Court has held that the petitioner ought to have verified the stage of the suit as he was

aware that suit was posted for trial on 08.11.2001. The petitioner having filed application to set aside exparte decree after one year, this Court has rightly held that said application without application to condone the delay is not maintainable.

4. In the circumstances, I hold that there is no error in the order sought to be reviewed. In the result, the Review Petition is dismissed. No Costs.

Index: Yes/No
dm/gsa

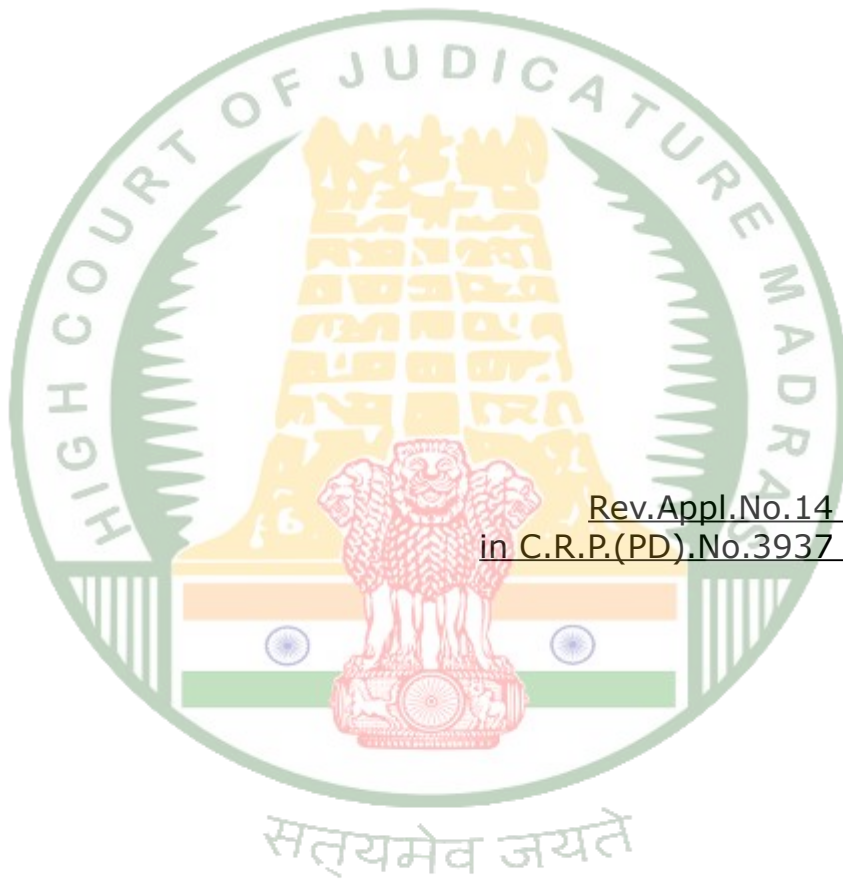
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V.M.VELUMANI,J.

dm



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