

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

Review Application No.207 of 2017

against

C.R.P. No.4787 of 2014

Govindan

..Petitioner

Vs.

Nagarajan

..Respondent

PRAYER : Review Application is filed under Order XLVII Rule 1 r/w Section 114 of C.P.C., to review the final order dated 10.03.2017 made in C.R.P.(NPD) No.4787 of 2014.

For Petitioner : Mr.M.Ravi

For Respondent : Mr.R.Rajarajan

ORDER

By the order dated 10.03.2017, this Court has allowed the Revision Petition, condoning the delay of 121 days in filing the Application on payment of cost. The present review has been filed by the respondent in the revision petition.

2. The learned counsel for the review applicant would submit that pursuant to the order dated 10.03.2017 passed by this Court, the applicant made a representation on 17.04.2017 to the Bangalore Corporation seeking to issue the particulars regarding the death of the said Rajamani. According to the Applicant, on the date mentioned in the affidavit, filed in support of the condone delay application, the death of the said Rajamani is not registered, as per the records of the Bangalore Corporation. Therefore, the applicant has filed this application, to review the order passed by this Court.

3. According to the respondent, the said document and the other receipts relied by the applicant disputed by the respondent. The learned counsel for the respondent submitted that this Court cannot consider the genuineness of the said documents, when the applicant has not filed those documents before the trial Court. Therefore, filing the present application to review the order passed by this Court, is liable to be dismissed.

4. The review applicant has filed a copy of the representation to the Bangalore Corporation, a receipt has been issued by the Bangalore Corporation. There is no certificate issued by

the Bangalore Corporation, giving the details sought by the applicant. The review applicant has not filed any document to prove that the respondent has filed the affidavit by giving a false statement. But, in view of the submission of the applicant, the same shall be considered only by the trial Court, after adducing oral and documentary evidences.

5. In the light of the above said facts, this Court is inclined to pass the following order :

- i. By consent of both the parties, the order passed in I.A. No. 263 of 2009 in O.S. No. 43 of 2008 is set aside and is remanded to the trial court to decide the condone delay application afresh, after considering the oral and documentary evidence of both the parties concerned, within a period of eight weeks from the date of receipt of a copy of this order.
- ii. On instructions, the learned counsel for both the parties, undertake to co-operate for the disposal of the application.
- iii. While deciding the issue, the trial court shall pass orders, independently, without influenced by the observations made in this order.

D.KRISHNAKUMAR,J.

rkp/avr

5. The Review Application is allowed, on the above terms.

No costs.

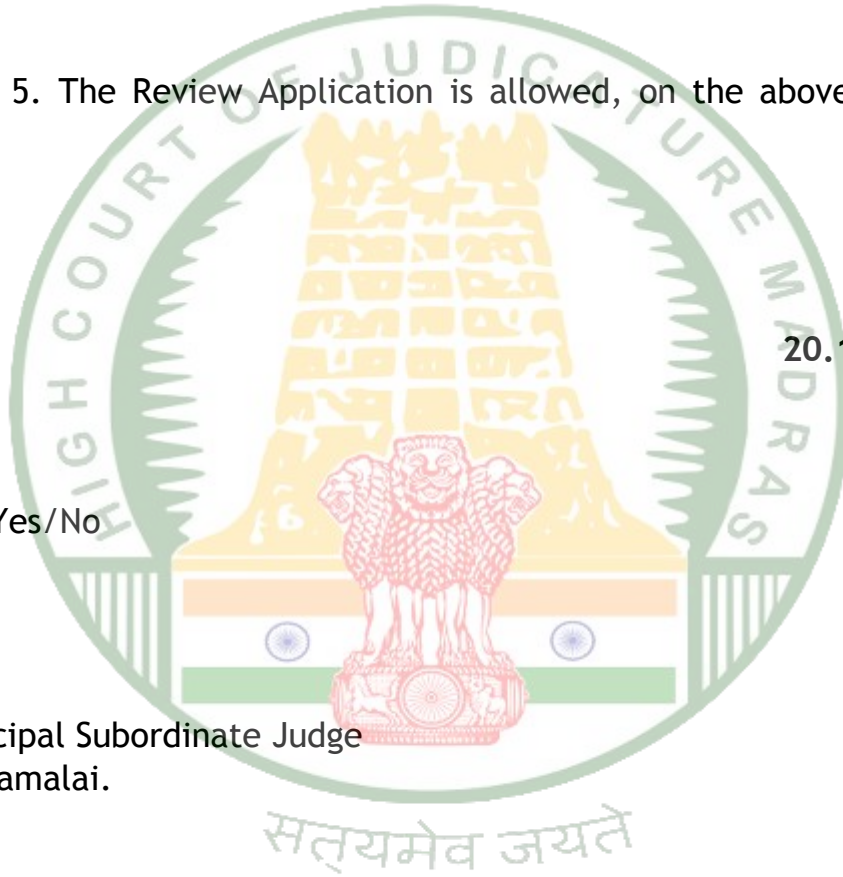
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rkp/avr

Index :Yes/No

To

The Principal Subordinate Judge
Tiruvannamalai.



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