

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP(NPD).No.1151 of 2018
and CMP.No.5968 of 2018

1.N.Manjula
2.Minor Maduvanthi
3.Minor Prithivi
[Minors represented by their
Mother and next friend N.Manjula] .. Petitioners

Vs

M.Manojkumar .. Respondent

PRAYER

Civil Revision Petition filed under Article 227 of the
Constitution of India to set aside the Fair and Final order passed in
I.A.No.57 of 2017 in O.S.No.230 of 2016 dated 02.11.2017 on the file
of the Subordinate Judge, Coonoor, Nilgiris District.

For Petitioners : Mr.S.Kingston Jerold

ORDER

The Civil Revision Petition is taken up for final disposal at
the admissions stage itself.

2. According to the revision petitioners, the revision petitioners have filed a suit in OS.No.230 of 2016 on the file of the Subordinate Judge, Coonoor, Nilgiris District for maintenance against the respondent herein. In the aforesaid suit, interim maintenance was granted by the trial court. Thereafter, the respondent herein did not appear before the court below for several occasions and exparte decree was passed by the trial court and thereafter with an intention to delay the proceedings, the respondent filed an application in IA.No.57 of 2017 to condone the delay of 99 days in filing an application to set aside the exparte decree. The said application was allowed on terms. Challenging the aforesaid order, the revision petitioners have preferred the present Civil Revision Petition before this Court.

3. The learned counsel for the revision petitioners would submit that for the delay of 99 days, the respondent has not stated any sufficient reasons in the affidavit. The revision petitioners have filed the suit for maintenance. Therefore, the respondent with an intention to drag on the proceedings has filed the instant application. Hence, the order of the court below is liable to be set aside.

4. Heard the learned counsel for the revision petitioners and perused the materials available on record.

5. By considering the aforesaid facts, the aforesaid suit was filed by the revision petitioners for maintenance against the respondent herein. The respondent with an intention to drag on the proceedings has not appeared before the court below and hence, ex parte decree was passed. Now, the respondent has filed the instant application to condone the delay in filing an application to set aside the ex parte order. The court below has accepted the reasons stated in the affidavit and accordingly allowed the application on terms for providing opportunity to the respondent.

6. In the light of the decision of the Division Bench of the Hon'ble Supreme Court in the case of *N.Balakrishnan Vs. M.Krishnamurthy* reported in **(1998) 7 SCC 123**, this Court is not inclined to interfere with the orders passed by the court below. Hence, the impugned order passed by the court below is confirmed.

7. The Civil Revision Petition fails and the Civil Revision Petition is dismissed with a direction to the trial court, namely the Subordinate Judge, Coonoor, Nilgiris District to dispose of the aforesaid suit in OS.No.230 of 2016 within a period of three months from the date of receipt of a copy of this Order. Consequently, the connected miscellaneous petition is closed. No costs.

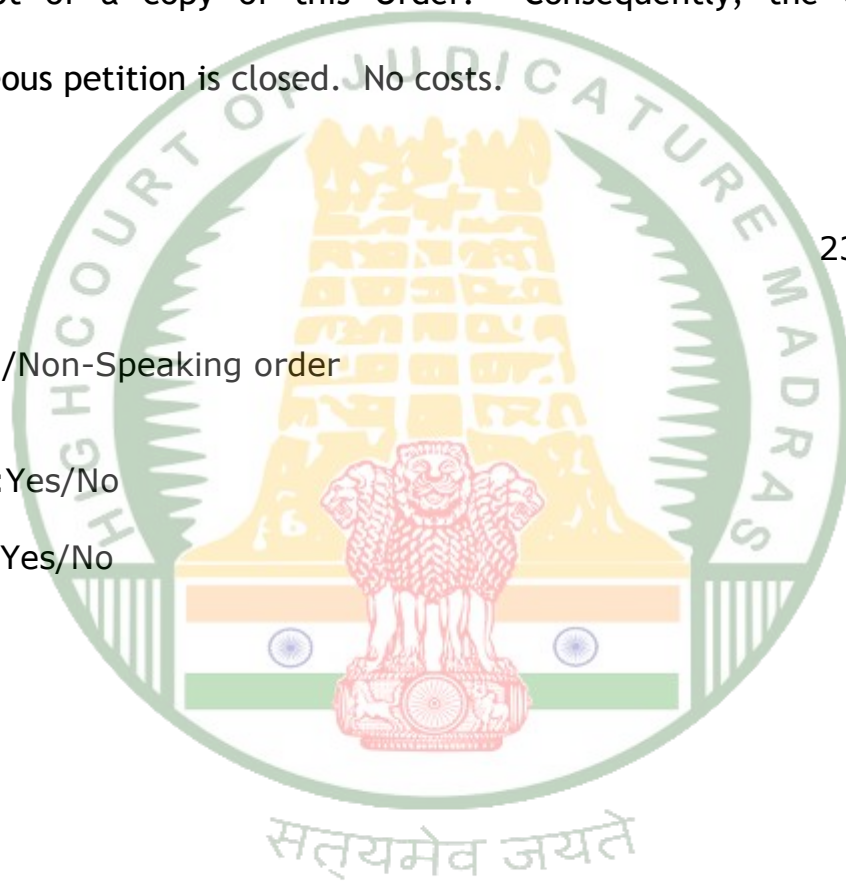
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Speaking/Non-Speaking order

Index :Yes/No

Internet:Yes/No

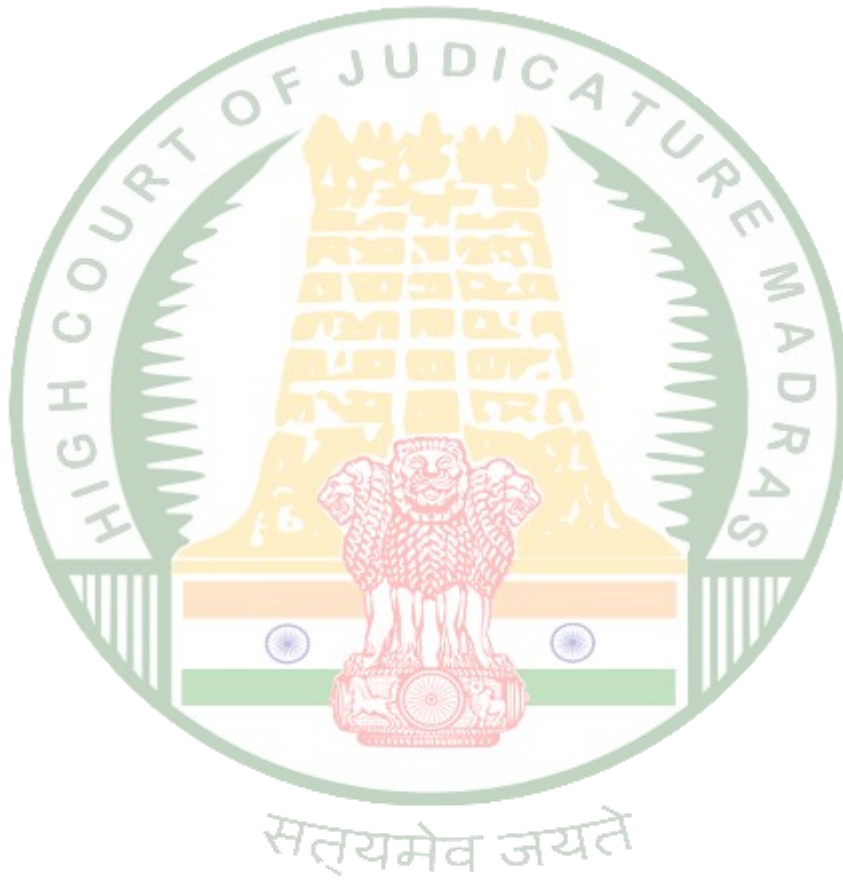
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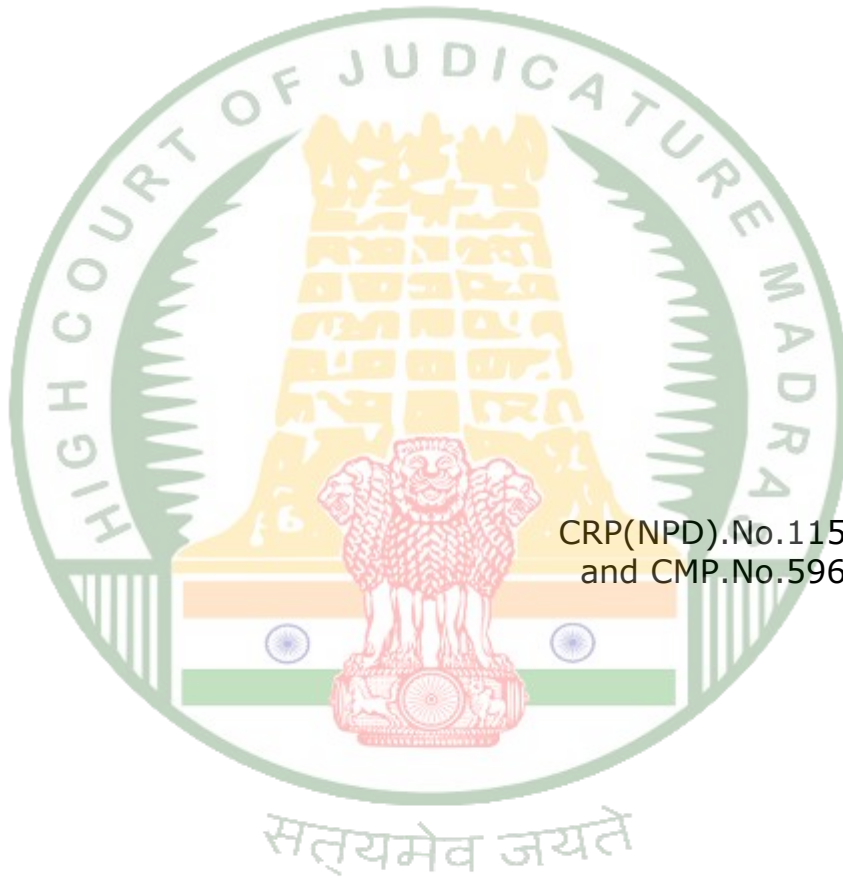
The Subordinate Judge,
Coonoor, Nilgiris District.



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D. KRISHNAKUMAR J.,

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