

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**C.R.P.(PD)No.1449 of 2018 and
C.M.P.No.7707 of 2018

R.Sujisma ... Petitioner

Vs.

P.B.Selvaraj ... Respondent

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the order and decree passed in I.A.No.86 of 2018 in I.A.No.445 of 2017 in O.S.No.514 of 2011 dated 21.03.2018 on the file of the II Additional Subordinate Judge, Salem, Salem District.

For Petitioner : Mr.D.Balachandran

ORDER

This civil revision petition has been filed against the order passed in I.A.No.86 of 2018 in I.A.No.445 of 2017 in O.S.No.514 of 2011 dated 21.03.2018 made by the learned II Additional Subordinate Judge, Salem.

2 The respondent herein filed a suit in O.S.No.514 of 2011, against the revision petitioner and others for specific performance, in which the revision petitioner was set exparte by an order dated 04.10.2017. The revision petitioner filed an interlocutory application in I.A.No.445 of 2017 seeking to set aside the exparte order dated 04.10.2017. The said interlocutory application was allowed by an order dated 29.01.2018 on condition that the petitioner herein should pay cost of Rs.1000/- to the plaintiff on or before 03.02.2018. Since the order dated 29.01.2018 could not be complied with by the petitioner in time, she filed an interlocutory application in I.A.No.86 of 2018 seeking extension of time to comply with the same. The trial Court by an order dated 21.03.2018 dismissed the interlocutory application. Aggrieved against the above said order dated 21.03.2018, the revision petitioner is before this Court with the present civil revision petition.

3 The learned counsel appearing for the revision petitioner would submit that since the revision petitioner is the student studying in C.M.G.College at Coimbatore, was not aware of the conditional order dated 03.02.2018. Further the counsel who appeared before the trial court for the revision petitioner and who is aware of the order dated

29.01.2018 was suffered with fever and could not contact the petitioner herein, which resulted in delay in complying the above said order. Hence the revision petitioner prays to allow this petition which enables the revision petitioner to defend the main suit on merits.

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

5 It is the main contention of the learned counsel appearing for the revision petitioner that since the revision petitioner is a student studying in C.M.G. College, Coimbatore, was not aware of the conditional order. Hence it could not be complied with in time.

6 Even though the contention of the learned counsel is not acceptable one, in order to meet the ends of justice, the revision petitioner shall be given one more opportunity to comply with the conditional order dated 29.01.2018. Accordingly, the order dated 21.03.2018 passed in I.A.No.86 of 2018 is hereby set aside and the petitioner is directed to comply with the order dated 29.01.2018 by paying a sum of Rs.1000/- to the respondent/plaintiff. In view of the inconvenience caused to the respondent/plaintiff, the petitioner herein

is also directed to pay a further sum of Rs.5,000/- to the respondent/plaintiff on or before 21.06.2018, failing which, the order passed in the civil revision petition shall stand automatically dismissed without any further reference to this Court.

7 With the above directions, the civil revision petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

11.06.2018

Internet: Yes/No

cgi

Note: Issue order copy on 19.06.2018

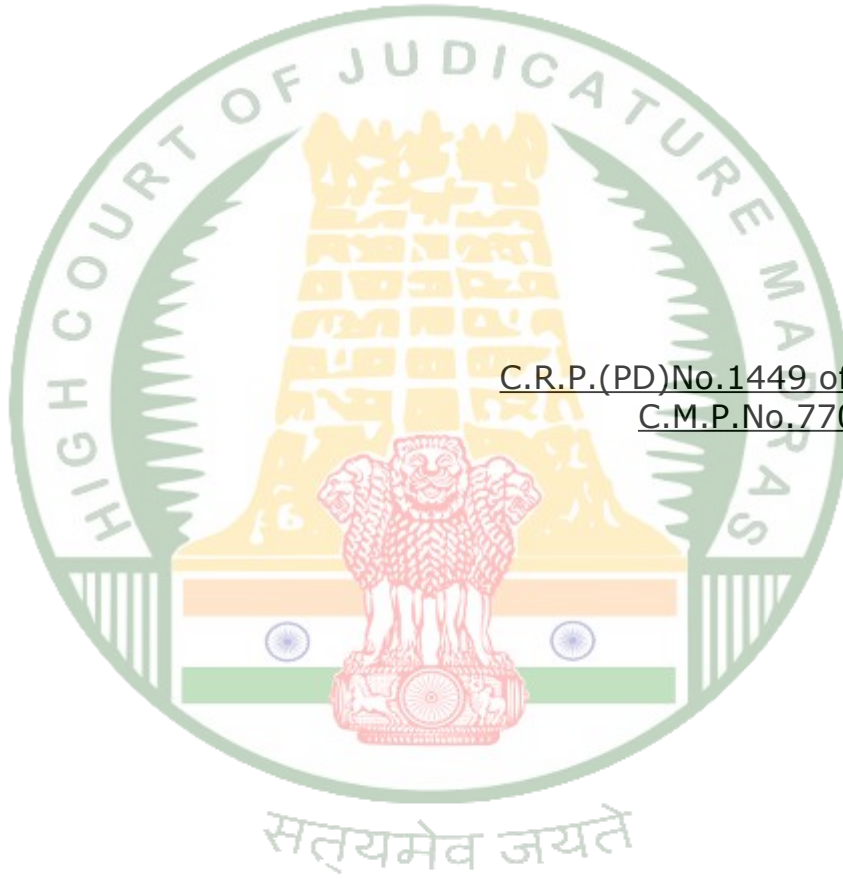
To

The II Additional Subordinate Court,
Salem.

सत्यमेव जयते
WEB COPY

P.VELMURUGAN, J.,

cgi



C.R.P.(PD)No.1449 of 2018 and
C.M.P.No.7707 of 2018

WEB COPY

11.06.2018