

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2018

CORAM: THE HONOURABLE Mr.JUSTICE N.SESHASAYEE

CRP (NPD) No.1465 of 2018

S.M.Murugan

... Petitioner

-Vs-

A.Palanivel

... Respondent

Prayer :- Civil Revision Petition filed under Article 227 of the Constitution of India, to direct the Additional District Court, Mettur to number the interlocutory application filed under Order 9 Rule 13 and dispose the same in accordance with law.

For Petitioner : Mr.D.Lakshmipathy

ORDER

1. The revision petitioner is the defendant in O.S.No.150 of 2014 on the file of I Additional District Court, Salem. In the suit, the revision petitioner was set *ex parte* on 18.07.2017 and *ex parte* decree was passed on 28.07.2017. Subsequently, thereafter on 24.08.2017, the petitioner had filed an application under Order IX Rule 13 for setting aside the *ex parte* decree.

2. Now the petitioner's predicament commences. The application dated 24.08.2017 filed by the revision petitioner before the I Additional District Court, Salem to set aside the *ex parte* decree was returned on 16.11.2017, and on 28.02.2018 it was represented. When this application was taken on

file on 07.04.2018, the learned I Additional District Judge, Salem, had returned it again on the ground that as per the official instructions received, as concerning matters/cases relating to Mettur Taluk, the Additional District Court (F.T.C), Mettur alone has territorial jurisdiction and hence the application dated 24.08.2017 filed by the petitioner is not maintainable before it. The petitioner therefore, approached the Additional District Court, Mettur. However, the Additional District Court at Mettur too refused to entertain it on the ground that it can be entertained only by the Court that has passed the decree and that the case papers are not made over to it.

3. There is no meaning in both the Courts trying not to find a solution to the problem and in the process they cannot augment the agony of the petitioner. This Court, therefore directs the I Additional District Court, Salem to receive the petitioner's application for setting aside the exparte decree which he has filed on 24.08.2017 and thereafter, it shall make over the entire papers to the Additional District Court (F.T.C.) at Mettur, after putting the respondent/plaintiff on notice.

4. This petition is accordingly allowed in the manner herein above indicated. No costs.

18.04.2018

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Note : Registry is directed to return the original affidavit to the learned counsel for the petitioner.

Index : Yes / No

To:

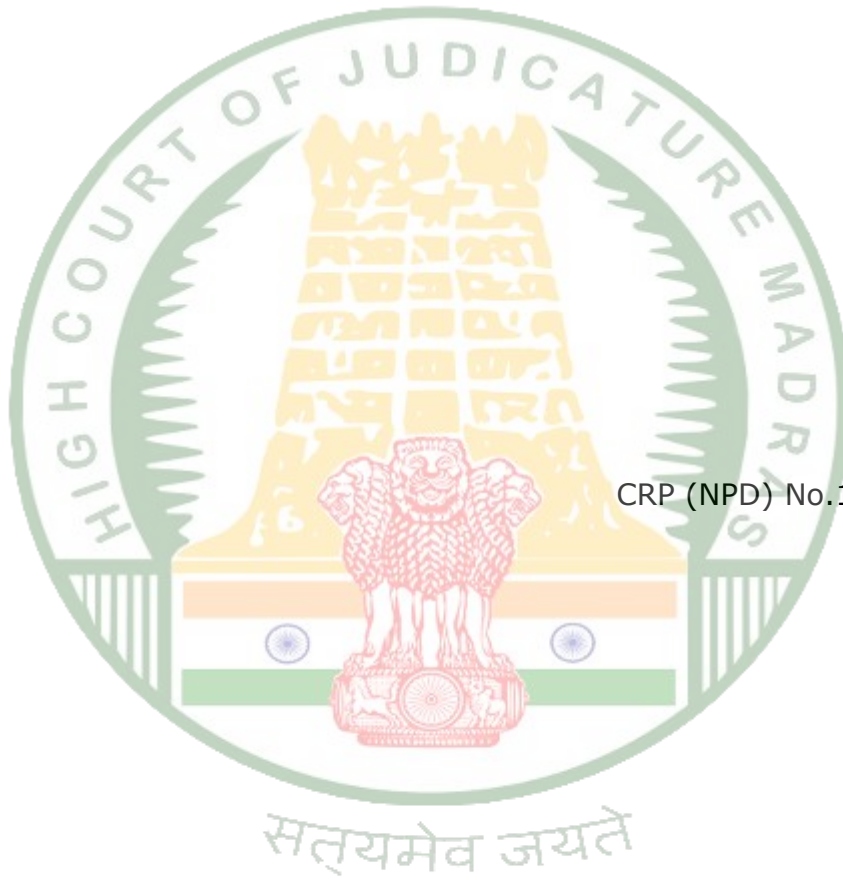
- 1.The I Additional District Judge
Salem.
- 2.The Additional District Judge
Mettur.



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N.SESHASAYEE,J.,

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