

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21-02-2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN
C.M.A.No.296 of 2018

1.G.P.Nallasamy
2.Rajeswari
3.Rajamani

... Appellants

Vs

Duraisamy

... Respondent

PRAYER : Civil Miscellaneous Appeal is filed under order 43 Rule 1(w) code of Civil Procedure to set aside the judgment and decree dated 03.11.2017 made in unnumbered Review Petition in C.F.R.No.6785 of 2017 in A.S.No.81 of 2016 on the file of the learned first Additional District Court, Erode.

For Appellant : Mr.N.Manokaran

J U D G M E N T

The respondent filed a Suit for damages on the ground that the respondent was prosecuted without any cause in C.C.No.161 of 2005, which ended in acquittal on 13.07.2009. The trial Court, after contest, dismissed the Suit filed by the respondent. On Appeal, Suit was decreed by allowing the appeal in A.S.No.81 of 2016. Against the said Appellate Court's decree, Second Appeal in S.A.No.84 of 2018 has been filed by the appellant herein and the same was admitted and an order of interim stay was granted.

2.Even before filing of the Second Appeal, the appellant filed an unnumbered Review Petition in C.F.No.6785 of 2017 in A.S.No.81/2016 and the same was dismissed on 03.11.2017 holding that the suit was in time against which only the present appeal has been filed. It is evident that the appellant has already exercised his remedy by filing Second Appeal before this Court. The appellant can canvass all the points which he wants to urge before this Court in Second Appeal No.84 of 2018. With that liberty, this Appeal is dismissed. No costs.

Sd/-

Assistant Registrar(CS-vii)

//True Copy//

Sub Assistant Registrar

sai

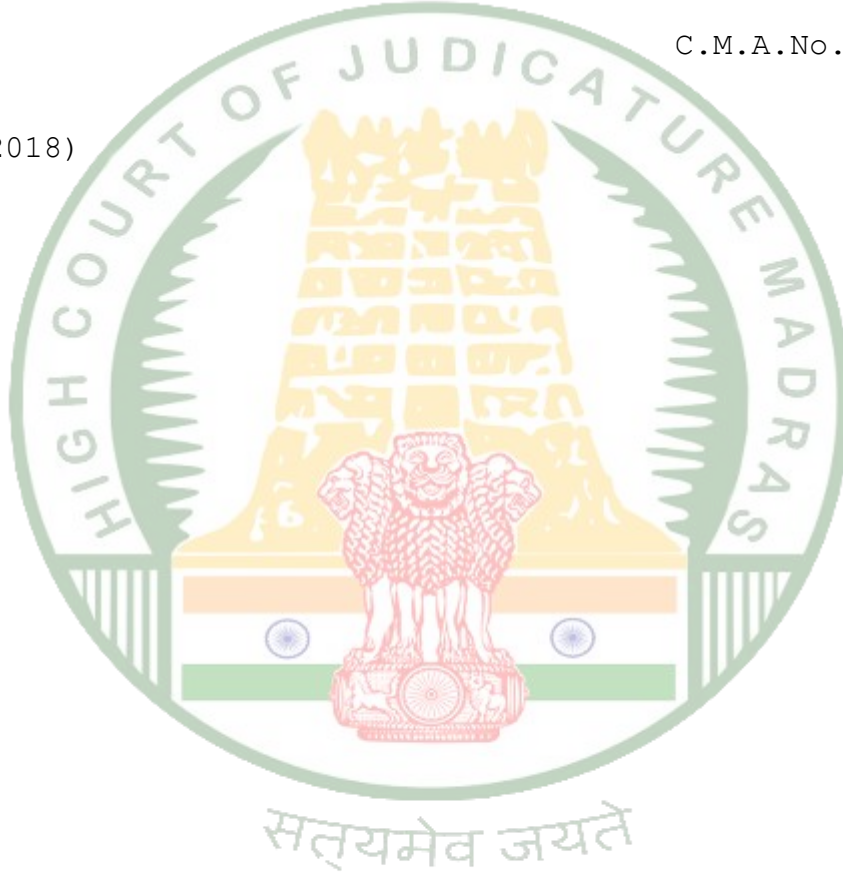
To
The I Additional District Judge,
I Additional District Court,
Erode.

Copy to :
The Section Officer,
V.R. Section, High Court, Madras.

+1cc to Mr.N.MANOKARAN, Advocate, S.R.No. 13357

C.M.A.No.296 of 2018

MR(CO)
TR(09/03/2018)



WEB COPY