

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 25.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD)Nos.1668 & 1669 of 2018 and
C.M.P.No.9145 of 2018

1. Krishnaveni
2. Rathna
3. Gurunathan
4. Thulasimani
5. Ulaganathan

... Petitioners in both the CRPs

Vs.

Balakrishnan

... Respondent in both the CRPs

Prayer in both the CRPs: Civil Revision Petitions have been filed under Article 227 of the Constitution of India against the fair and decreetal orders dated 08.08.2017 & 24.08.2017 respectively passed in I.A.No.1172 of 2017 in O.S.No.278 of 2014 on the file of the District Munsiff Court, Maduranthakam.

For Petitioners : Mrs.R.Meenal

COMMON ORDER

These civil revision petitions have been filed against the orders dated 08.08.2017 & 24.08.2017 respectively passed in I.A.No.1172 of 2017 in O.S.No.278 of 2014 by the learned District Munsiff, Maduranthakam.

2 The revision petitioners filed a suit in O.S.No.278 of 2014 against the respondent for permanent injunction. When the above case was posted for P.W.1 cross and marking document, the petitioners/plaintiffs could not appear before the trial Court and hence the trial Court dismissed the above suit for default by an order dated 26.02.2016. The revision petitioners/plaintiffs filed an interlocutory application in I.A.No.1172 of 2017 seeking to condone the delay of 439 days in filing application to restore the suit. The application was allowed by an order dated 08.08.2017 on condition that the revision petitioners/plaintiffs shall pay a sum of Rs.500/- on or before 18.08.2017, failing which, this application shall stand automatically dismissed and adjourned the matter to 19.08.2017. When the matter was called before the trial Court on 19.08.2017 for compliance of the order dated 08.08.2017, the revision petitioners have not complied the same, hence the matter was adjourned to 24.08.2017. Even on the day also the revision petitioners did not comply with the order dated 08.08.2017. Hence the Trial Court dismissed the application in I.A.No.1172 of 2017 by order dated 24.08.2018.

3 Aggrieved against the orders dated 08.08.2017 and 24.08.2017, the plaintiffs are before this Court with these civil revision petitions.

4 The learned counsel appearing for the revision petitioners would submit that the revision petitioners did not aware of the order dated 26.02.2016. Hence the revision petitioners filed application seeking to condone the delay of 439 days in filing an application to restore the suit, which was allowed by an order dated 08.08.2017 by imposing cost of Rs.500/- and subsequently dismissed for non compliance of the above order vide order dated 24.08.2017. The counsel who appeared before the trial Court for the plaintiffs did not inform the same to the revision petitioners/plaintiffs. Hence the petitioners could not comply with the order dated 08.08.2017. The learned counsel would further submits that it is just and necessary to allow the revision petitioners to proceed the case, since they have a good case on their side.

5 Even though the revision petitioners did not file any application seeking extension of time to comply with the order dated 08.08.2017, in order to meet the ends of justice, the revision petitioners shall be given one more opportunity to comply with the conditional order dated 08.08.2017. Accordingly, the order dated 24.08.2017 made in I.A.No.1172 of 2017 is hereby set aside and the

petitioners are directed to comply with the order dated 08.08.2017 within a period of one week from the date of receipt of a copy of this order. On receipt of compliance of the order dated 08.08.2017, the trial Court is directed to dispose of the suit in O.S.No.278 of 2014 in accordance with law.

6 With the above directions, these civil revision petitions are disposed of. Consequently, connected miscellaneous petition is closed. No costs.

25.06.2018

Internet: Yes/No

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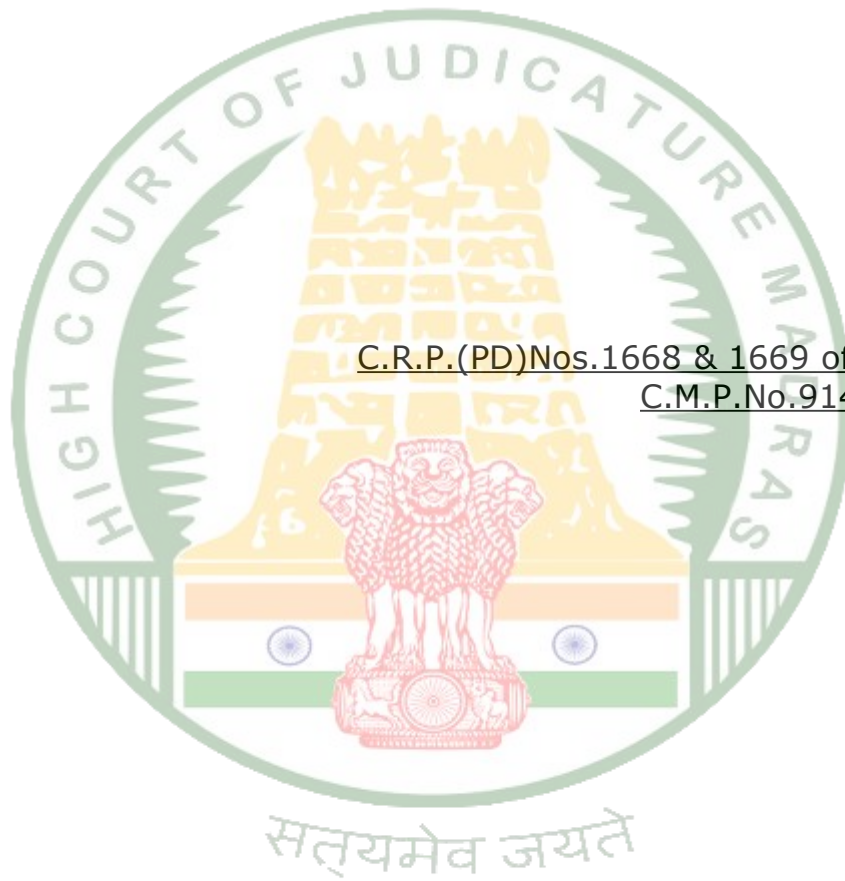
To

The District Munsiff Court,
Maduranthakam.

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P.VELMURUGAN, J.,

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