

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP (NPD) No. 3561 of 2017

and

CMP. Nos. 16814 & 16815 of 2017 & 5731 of 2018

1. R. Rani
2. R. Sasi Manoj
3. R. Deepak

.. Petitioners

Vs.

Noble Broadcasting
Corporation Pvt.Ltd.,
rep. By its authorised
Executive Mr. D. Vijayasarithi
Old. No.151, New No.306
Purasawalkam High Road
Chennai - 600 010.



.. Respondent

PRAYER : Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 23.08.2017 passed by the learned XV Assistant Judge, City Civil Court at Chennai in I.A. No. 16781 of 2016 in O.S. No.6444 of 2014 and pass such further orders.

For Petitioners : Ms. G. Nirmala Devi

For Respondent : Mr. N. Ramesh

ORDER

This revision arises against the fair and decreetal order dated 23.08.2017 passed by the learned XV Assistant Judge, City Civil Court at Chennai in I.A. No. 16781 of 2016 in O.S. No.6444 of 2014.

2. The respondent herein filed the suit in O.S. No. 6444 of 2014 for recovery of money against the revision petitioners. In the aforesaid suit, an ex-parte decree was passed on 29.04.2015. Based on the decree, the respondent filed execution petition in E.P. No. 3202 of 2015. The revision petitioners filed vakalat in the execution proceedings. Thereafter the petitioners filed an application in I.A. No. 16781 of 2016, to condone the delay of 220 days in filing the application to set aside the ex-parte decree dated 29.04.2015. In the aforesaid application, the revision petitioners contended that their father Ramachandran died on 20.05.2011, due to family situation and financial stress they shifted their family to native village in Ramanathapuram and their counsel did not follow up the case. It is further submitted that only on receipt of notice in the E.P. No. 3020/2015, the petitioners were

aware of the ex-parte decree. Therefore, the revision petitioners immediately contacted the present counsel and filed the said application. However, the court below dismissed the application filed for condonation of delay in filing the ex-parte decree. Aggrieved by the same, the civil revision petition is filed before this Court.

3. The learned counsel for the petitioners fairly conceded that there is a delay of 220 days in filing the application to set aside the ex-parte decree and prayed this Court to pass appropriate orders to the court below so that the suit may be decided on merits, after providing an opportunity to them.

4. Considering the above submissions of the learned counsel for both the parties, the fact that the suit is of the year 2014 and since the respondent has initiated execution proceedings against the revision petitioners, this Court is inclined to pass the following orders :-

1. The order of the court below is set aside on condition that the petitioners pay a sum of Rs.2500/- to the respondent, within a period of two weeks from the date of receipt of a copy of this

order.

2. In the event of the conditional order being complied with, the application filed under Order IX Rule 13 is allowed.
3. On instructions, learned counsel for the petitioners would submit that the revision petitioners would co-operate for the disposal of the suit.
4. The XV Assistant Judge, City Civil Court, Chennai is directed to dispose of the suit as expeditiously as possible, on merits and in accordance with law, within a period of six months from the date of allowing the Interlocutory Application under Order IX Rule 13.

5. The Civil Revision Petition is disposed of, with the above direction. Consequently, the connected M.Ps are closed. No order as to costs.

27.03.2018

Index: Yes/ No

Speaking Order/Non Speaking Order

[Issue order copy on 3.5.2018]

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To

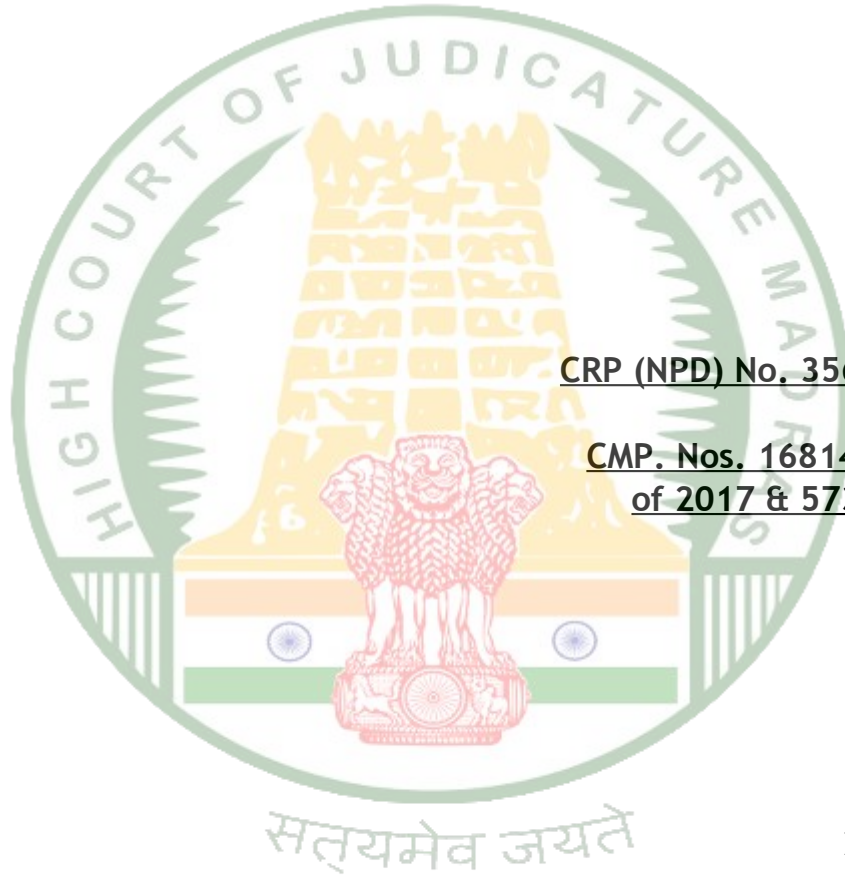
The XV Assistant Judge

City Civil Court, Chennai.

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D. KRISHNAKUMAR J.,

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