

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 16.2.2018

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

C.R.P.(PD) No.195 of 2018

1 Thangaponnu

2 Kavitha

... Petitioners

Vs

1 Ramaye

2 Kandasamy

3 Damotharan

4 Minor Umapathi

... Respondents

This Civil Revision Petition is filed under section 227 of Constitution of India against the order dated 31.07.2017 made in I.A.No.170 of 2017 in O.S.No.676 of 2009 on the file of the II Additional District Munsif, Salem.

For Petitioner : Mr.P.Gopiraja
For Respondent No.1 : No appearance
For Respondent No.2 to 4 : Mr.C.D.Sugumar

ORDER

According to the petitioner, the petitioner has filed a suit in

O.S.No.676 of 2009 for declaration and permanent injunction against the respondents herein. In the aforesaid suit, the respondents have filed written statement on 11.2.2010. Thereafter, the suit was adjourned to 27.7.2012. On that day, the petitioner was not in a position to appear before the trial court, the suit was dismissed for default on 27.7.2012 for non appearance of both parties. The petitioner has filed an application in I.A.No.170 of 2017 under Section 5 of Limitation Act for condoning the delay of 1499 days in filing the restoration petition. The said application was dismissed by the court below, the plaintiff has filed the present Civil revision petition before this Court.

2 After hearing both sides, on instructions, counsel for the petitioner agreed to pay cost for condoning the delay.

3 Learned counsel for the respondent though objected for allowing the application, however submits that the said application may be allowed by imposing reasonable cost on the petitioner.

4 In the light of the submissions made by the counsel for the parties, this Court is inclined to pass the following order:

(i) The order passed by the learned II Additional District Munsif, Salem, dated 31.07.2017 in I.A.No.170 of 2017 in O.S.No.676 of 2009 is set

aside.

(ii) The Civil revision petition is allowed on payment of cost of Rs.40,000/- to the respondents and Rs.5000/- to the Tamilnadu Mediation and Conciliation Centre, High Court, Madras on or before 16.3.2018 in default the order passed hereinabove stands dismissed automatically without further reference to this Court.

(iii) The Civil revision petition is allowed on the above terms. Connected miscellaneous petition is closed.

For reporting compliance, post the case on 20.3.2018.

16.02.2018

Speaking/Non Speaking Order

Index: Yes/No

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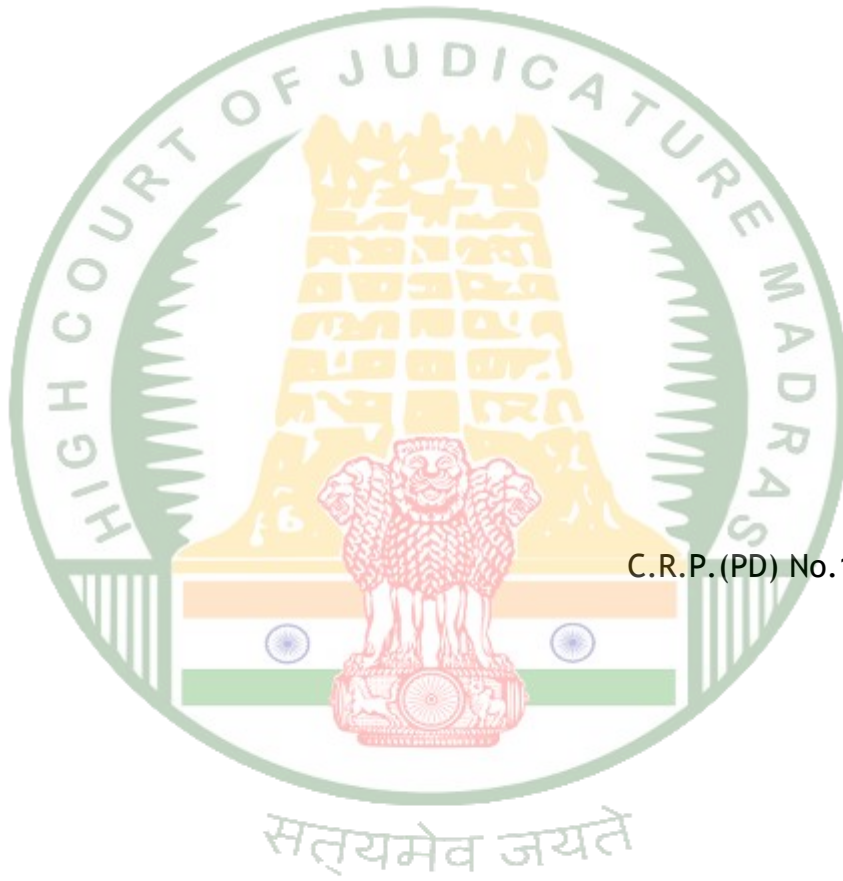
To

The II Additional District Munsif, Salem

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D.KRISHNAKUMAR,J.

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Dated: 16.2.2018