

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(NPD).No.4688 of 2017
and CMP.No.22051 of 2017

Mrs.I.Shoba Rani

.. Petitioner

Vs.

D.Arulmurugan

.. Respondent

PRAYER: Civil Revision Petition filed under Section 25 of the Tamil Nadu Buildings (Lease and Rent Control Act, 1960 against the fair and decreetal order dated 03.10.2017 passed by the learned Sub-ordinate Judge, Poonamallee, in I.A.No.270 of 2016 in unnumbered R.C.A.

For Petitioner : Mr.E.Senthil kumar

For Respondent : No appearance

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ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 03.10.2017 passed by the learned Sub-ordinate Judge, Poonamallee, in I.A.No.270 of 2016 in un-numbered R.C.A.

2.Last occasion none appeared for the respondent and the case is posted today. Today also none appeared for the respondent.

3.According to the revision petitioner, the delay of 10 days in filing the appeal in un-numbered R.C.A. against the order in R.C.O.P.No.10 of 2013 dated 27.11.2015. The Appellate Court dismissed the said appeal. Challenging the aforesaid order, the revision petitioner preferred the present Civil Revision Petition before this Court.

4.According to the revision petitioner, the revision petitioner has stated the reason that her counsel handed over the Judgment and Decree on 04.10.2016 by that time the limitation period has lapsed hence she could not file the appeal in time. The petitioner further stated that no hardship will be caused to the respondent, if the delay of 10 days is condoned and on the other hand she will be put to great loss and hardship if the delay is not condoned hence seeks to condone the delay in filing the R.C.A.

5.By considering the the facts and the reasons stated in the affidavit, this Court is inclined to interfere with the order passed by the Court below is liable to be set aside.

6.In the light of the decision of the Hon'ble Supreme Court of India, in the case of ***Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors., reported in (2013) 12 SCC 649***, the Hon'ble Supreme Court has observed that there should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.

7.Taking into consideration of the nature of the length of the delay and providing an opportunity to the petitioner and in the light of the aforesaid decision of the Hon'ble Supreme Court, this Court is inclined to interfere with the order passed by the Appellate Court and the same is liable to be set aside.

8. In fine, the impugned order passed by the Appellate Court is set aside and the Civil Revision Petition is allowed. No costs. Consequently, the connected Miscellaneous Petition is closed.

23.03.2018

Speaking/Non-Speaking order

Index : Yes/No

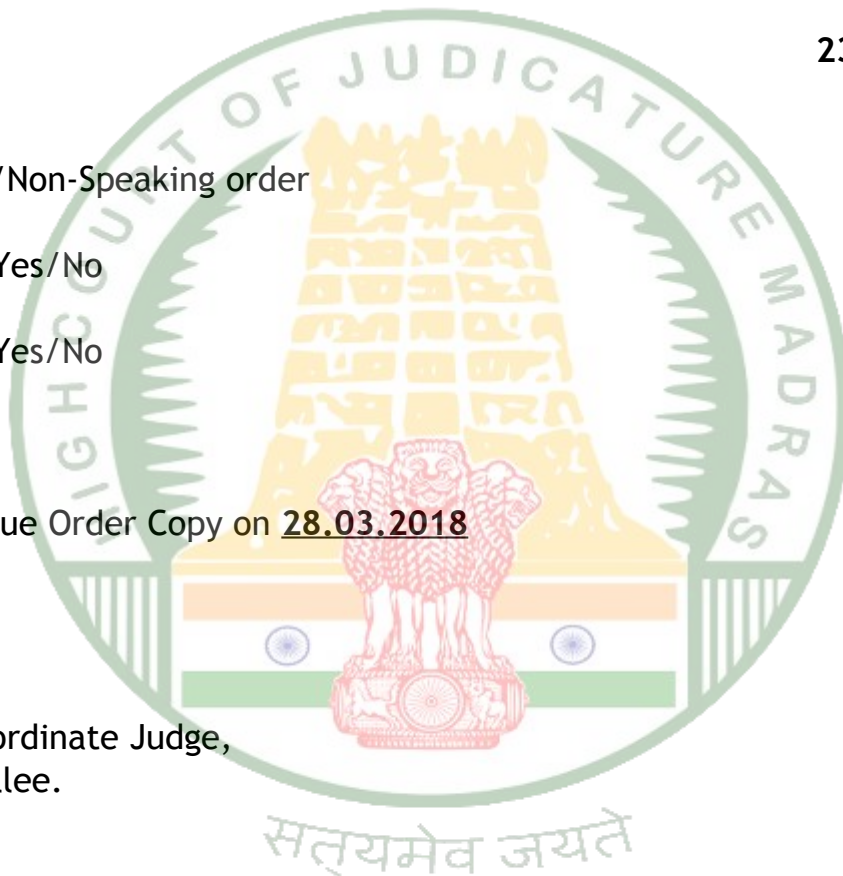
Internet: Yes/No

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Note: Issue Order Copy on 28.03.2018

To

The Sub-ordinate Judge,
Poonamallee.



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D. KRISHNAKUMAR J.,

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