

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.04.2018

Coram: The Honourable Mr. Justice N. SESHASAYEE

C.R.P(NPD)No.3955 of 2011

Vasanthi

...Petitioner

Versus

1. Indrani Ammal

2. Muthukumaraswamy

...Respondents

This Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure against the fair and final order dated 13.07.2011 passed in I.A.No.435 of 2010 in I.A.No.92 of 2009 in A.S.No. of 2009 on the file of the Principal District Judge, Cuddalore.

For Petitioner : Mr.S.K.Rakhunathan

For Respondents : Mr.T.R.Rajaraman

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ORDER

1. The revision petitioner herein is the defendant in O.S.No.443 of 1995 on the file of the Sub-Judge, Sub-Court, Cuddalore who having suffered a decree for declaration of title and for other

allied reliefs has filed an Appeal before the first Appellate Court

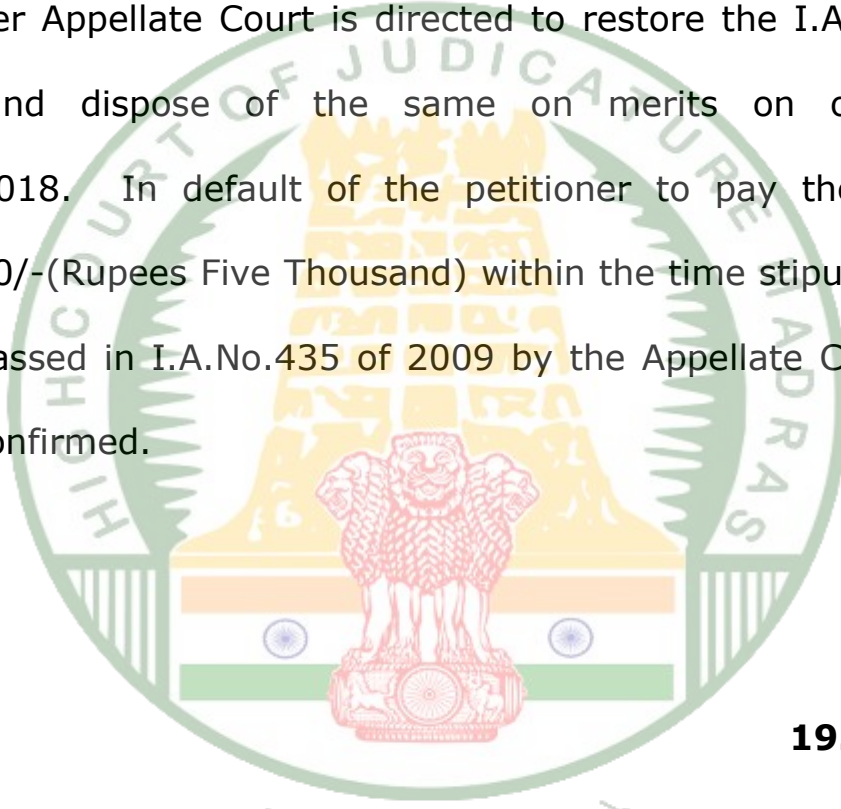
and that the same was returned by the first Appellate Court. Therefore, the petitioner represented it after a delay of 1893 days and I.A.No.92 of 2009 is his Application to condone the delay was dismissed for non-prosecution, whereinafter, he filed an Application for Restoration of the aforementioned petition and that was dismissed on merit and the same is now under challenge.

2. The first Appellate Court while dismissing the petition for Restoration vide the impugned order dated 13.07.2011, rejected the explanation offered by the revision petitioner that she was down with jaundice as no proof of the same was forthcoming.

3. Mr.T.R.Rajaraman, the learned counsel for the respondent submitted that the suit has commenced in the year 1995 and the decree was passed by the Trial Court in 2003, and ever since, the attitude of the revision petitioner in prosecuting the appeal is one of indifference.

4. Since the suit is for declaration of title taking a realistic view of the matter and appreciating the facts and circumstances, this Court thinks that it is appropriate to allow this Civil Revision

Petition and set aside the order passed by the Court in I.A.No.435 of 2010 in I.A.No.92 of 2009 in A.S.No. of 2009 but on payment of cost of Rs.5,000/- (Rupees Five Thousand) payable to the respondents on or before 04.06.2018, whereupon, the lower Appellate Court is directed to restore the I.A.No.92 of 2009 and dispose of the same on merits on or before 29.06.2018. In default of the petitioner to pay the cost of Rs.5,000/-(Rupees Five Thousand) within the time stipulated, the order passed in I.A.No.435 of 2009 by the Appellate Court shall stand confirmed.

**19.04.2018**

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Index : Yes / No

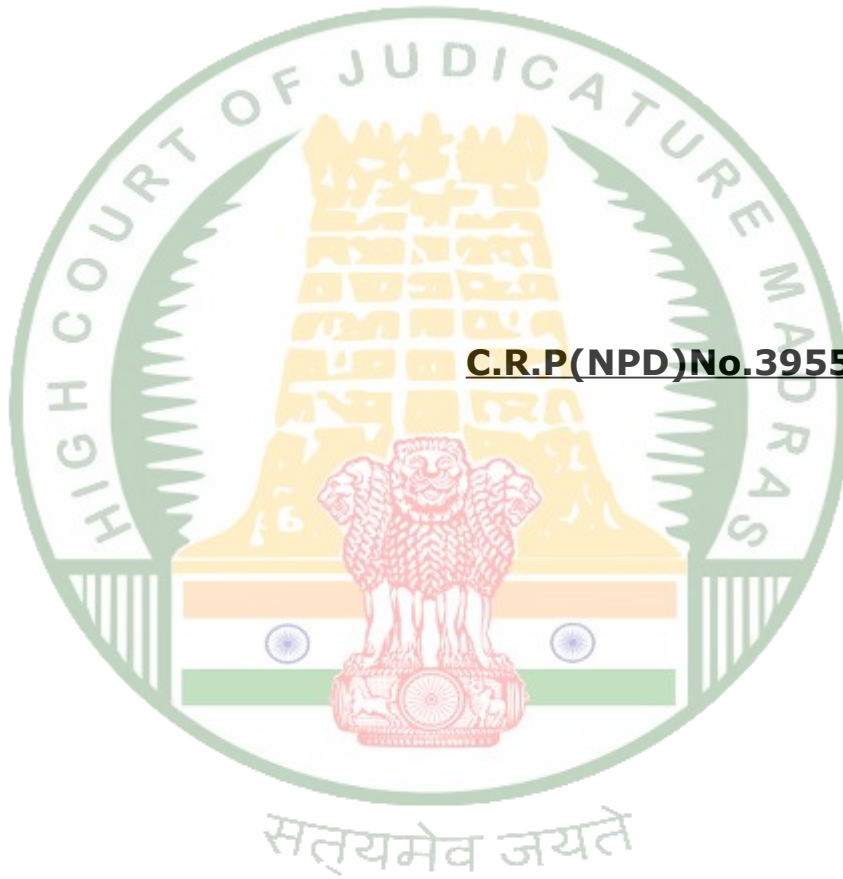
To

The Principal District Judge,
Cuddalore.

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N. SESHASAYEE, J.,

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