

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.04.2018

CORAM : THE HONOURABLE MR.JUSTICE N.SESHASAYEE

CRP.(NPD) No.3971 of 2011

1.Ramagounder
2.Karuppusamy
3.Ramasamy
4.Kamalathal
5.Kavitha
6.Ravikumar

... Petitioners

Vs

1.Ramathal
2.Palraj
3.Shanmugasundararaj
4.Govindaraj
5.Rajeswari
6.Devaraj
7.Krishnasami
8.Pavulraj
9.Muthusamy
10.Subbian

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and final order passed in I.A.No.1046 of 2010 in O.S.No.405 of 2007 on the file of the District Munsif Court, Palladam dated 12.07.2011 and to set aside the same.

For Petitioners : Mr.R.Babu
for Mr.M.Parthasarathy

For Respondent : Mr.P.K.Rajagopal [R9 & R10]
No appearance [R1 to R8]

ORDER

The present revision arises out of an order dated 12.07.2011 passed in I.A.No.1046 of 2010 on the file of District Munsif Court, Palladam, filed for condonation of delay of 125 days in restoring the suit in O.S.No.405 of 2007, that the petitioner had filed for bare injunction against the respondents.

2. The suit was laid for permanent injunction and it was dismissed for default on 09.9.2009. Subsequently, the revision petitioners/plaintiffs has come forward with two applications viz., one for restoring the suit to file, and the other for condonation of delay of 125 days in preferring the earlier mentioned petition. The application filed for condonation of delay was taken on file in I.A.No.1046 of 2010. In the affidavit filed in support of the application, the revision petitioners averred that he was down with 'chikungunya' owing to which he could not file necessary petition within stipulated time for restoring the suit. This was dismissed.

3. Heard the learned counsel on both sides. The trial Court without adducing a clear reason, has dismissed it, submitted the counsel. On perusing the papers, this Court is satisfied that the learned Munsif has not bestowed adequate care in deciding the issue at hand objectively and pragmatically and has dismissed the application, more or less with a non-speaking order.

<http://www.judis.nic.in> 4. This Court is however, now satisfied that the reasons adduced for condoning

the delay is adequate and it is appropriate to allow this petition. The revision petition is accordingly allowed and the order dated 12.07.2011 passed in I.A.No.1046 of 2010 is set aside. The trial Court is now required to take the other application filed for restoring the suit, and restore the suit. Since the matter is pending for about 11 years now, the trial Court is directed to complete the trial of the matter on or before 31.08.2018. No costs.

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Index : Yes / No
Speaking Order / Non-speaking Order

To :
The District Munsif Court,
Palladam.

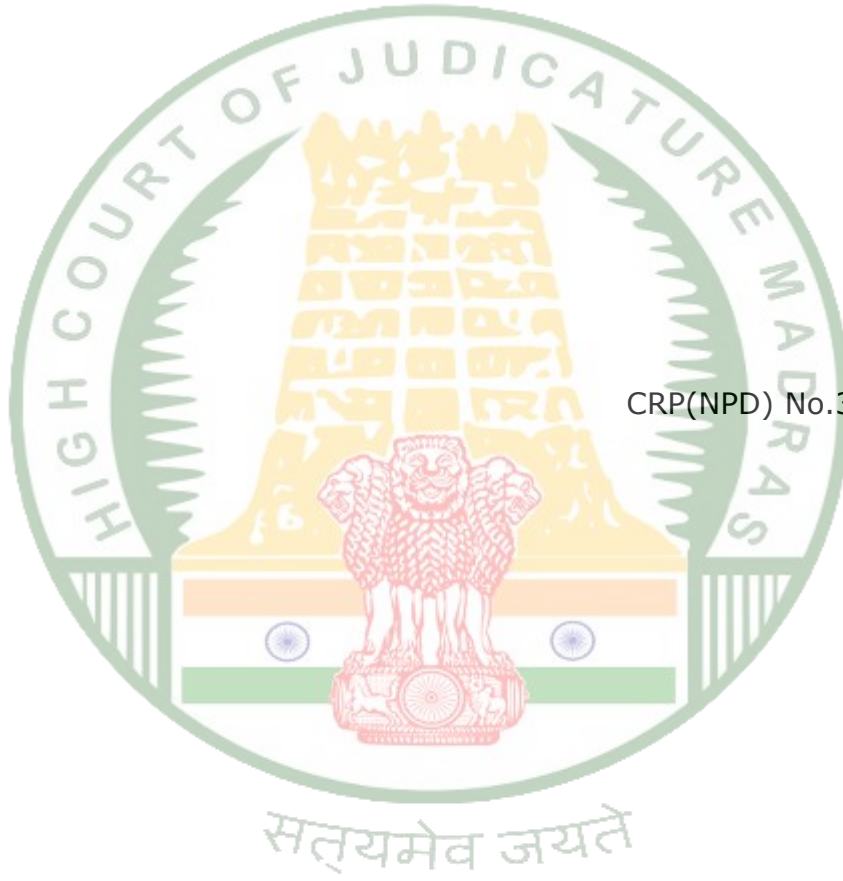
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N.SESHASAYEE, J.,

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