

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

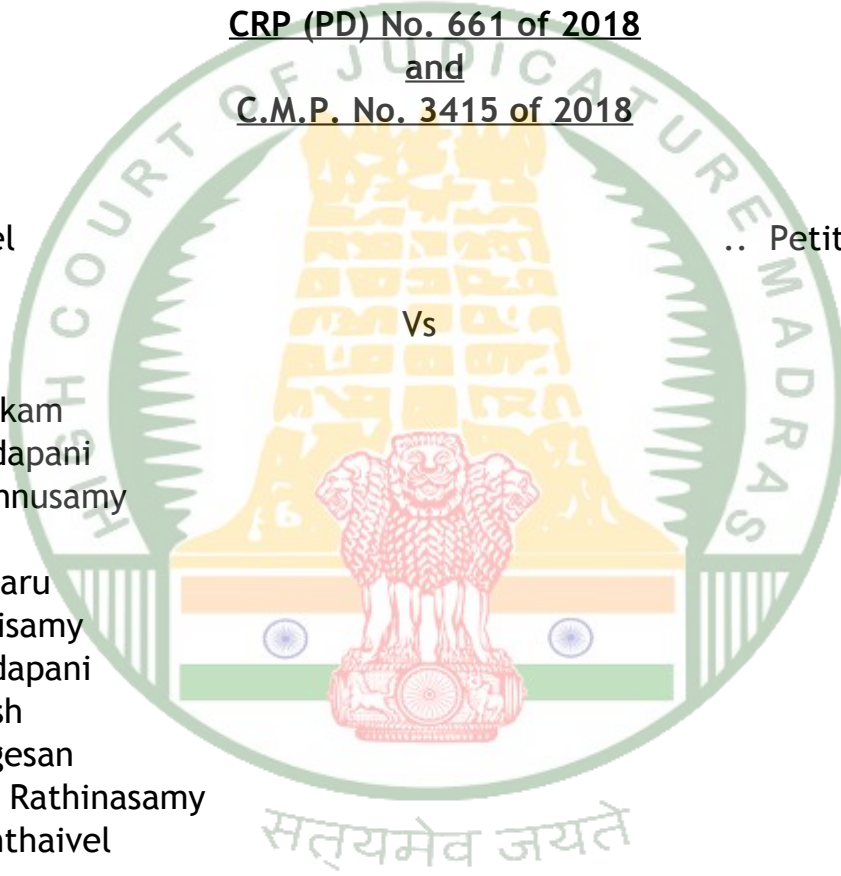
CRP (PD) No. 661 of 2018
and
C.M.P. No. 3415 of 2018

K. Vadivel

.. Petitioner

Vs

1. Manickam
2. Dhandapani
3. V. Ponnusamy
4. Mani
5. Bootharu
6. Palanisamy
7. Dhandapani
8. Ganesh
9. Murugesan
10. Dr.V. Rathinasamy
11. Kulanthaivel
12. Kannan
13. Durai @ Durai Raj
14. Arunachala Mudaliar
15. A. Chandran
16. Krishnan
17. Manimekalai
18. S. Banumathi
19. Shanthi
20. Vimala
21. Navinya



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22. Minor Rithika
rep. By mother Vimala

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order of the learned District Munsif, Tiruppur dated 03.08.2017 in I.A. No. 601 of 2015 in O.S. No.689 of 2004.

For Petitioner : Mr.T.M. Hariharan

ORDER

The revision petition is filed seeking to set aside the fair and decreetal order of the learned District Munsif, Tiruppur dated 03.08.2017 in I.A. No. 601 of 2015 in O.S. No.689 of 2004.

2. The learned counsel for the petitioner would submit that the 1st respondent has filed the suit against the petitioner. The 1st defendant in the suit, who is the father of the petitioner died on 11.02.2014 and the 11th defendant died on 19.03.2014. The plaintiff/ 1st respondent filed an application to implead the legal heirs of the 1st and 11th defendants, with a delay of 229 days and 193 days respectively and also filed an application to condone the delay. The said application was

allowed. Therefore, the present Civil Revision Petition is filed before this Court.

3. According to the petitioner, although the 1st respondent had the knowledge about the death of the 1st and 11th and in the absence of sufficient reasons to condone the delay, the court below has allowed the application.

4. Considered the facts and contentions of the learned counsel for the petitioner.

5. Admittedly, the 1st respondent has filed an application to condone the delay of 229 days and 193 days in filing the application to set aside the abatement and in impleading the legal representatives of the deceased 1st and 11th defendants. However, the court below has observed that as per the decision of the Hon'ble Supreme Court in the case of *Esha Bhattacharjee vs. Managing Committee of Raghunathpur Nafar Academy & Ors.*, reported in (2013) 12 SCC 649, a liberal, pragmatic, justice-oriented, non- pedantic approach has to be taken

while dealing with an application for condonation of delay. Further, the delay is only 229 and 193 days and being satisfied with the reasons stated in the affidavit the court below has condoned the delay. Hence, this Court is not inclined to interfere with the order of the court below. However, considering the fact that the suit is of the year 1996, the District Munsif Court, Tiruppur is directed to dispose of the suit, as expeditiously as possible, preferably on or before August 2018.

7. In fine, the Civil Revision Petition is dismissed, with the above direction. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

21.02.2018

Index : Yes/ No

Speaking order/ Non speaking order

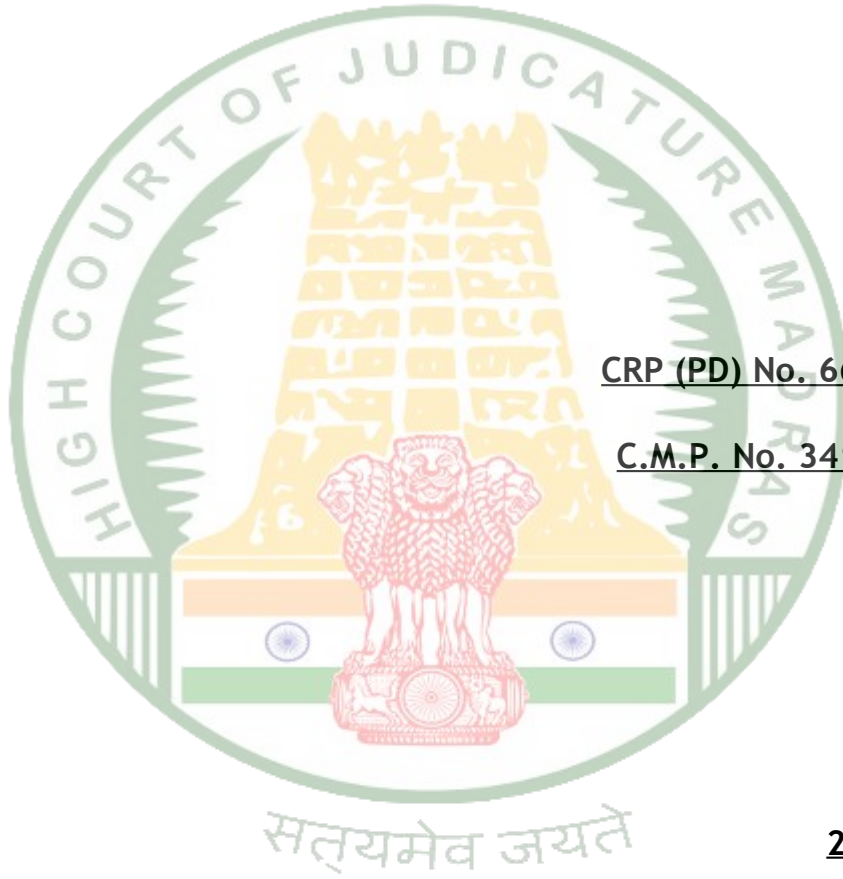
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To
The District Munsif Court,
Tiruppur.

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D. KRISHNAKUMAR J.,

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