

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 12.10.2018
CORAM:

The Hon'ble Mr.Justice N.Seshasayee

C.M.A.No.551 of 2018

1.Nirmala
2.Keerthana

...Appellants/Petitioners/
Plaintiffs

Vs.

1.Sellamuthu
2.Pongiyammal
3.Anbazhagan
4.Marappan
5.Senthilkumar,
6.Rajavel
7.Palaniammal
Pavayee (Died)
8. Chinnusamy
9.Mohanraj
10.Velappan
11.Kandasamy
12.Kaliammal
13.Palanisamy
14.Chinnusamy
C.Ramasamy (Died)
15.Selvaraju
16.Chinnathambi
17.Kunjammal
Sakthivel (Died)
18.Marimuthu
19.Moorthi
20.Ganasekaran
21.Chinnusamy
22.C.Gopalakrishnan
23.Kalaimani

...Respondents/Respondents/
Defendants

Prayer: Appeal filed under Order 43 Rule 1(c) of the Code of Civil Procedure to set aside the fair and decretal order dated 31.01.2018 made in I.A.No.353 of 2017 in O.S.No.1 of 2008 on the file of the learned Sessions Judge/Fast Track Mahila Court, Namakkal.

For Appellants : Mr.N.Manokaran

For Respondent-9: Mr.T.L.Thirumalai Samy

J U D G M E N T

This Civil Miscellaneous Appeal is preferred against an order in an application filed in I.A.No.353 of 2017, seeking restoration of the suit, which was dismissed for default. In this case, the trial has commenced, and on 04.10.2017, the case was posted for cross-examination of P.W.1 (plaintiff). It appears that, while the learned counsel for the defendants/respondents herein were ready for cross-examination, the plaintiffs could not reach the Court in time, as P.W.1 got stuck in a traffic jam unexpectedly. In this situation, the Trial Court dismissed the suit for default.

2. Heard the learned counsel appearing for the parties concerned.

3. The appellants had promptly filed the Application for restoration of the suit stating the reasons. But the Trial Court found the reasons as not convincing and dismissed the Suit.

4. It has been said several times, and possibly, will be told several times again that, life of law is not logic to experience. To get stuck in a traffic jam is common experience that every citizen in this Country encounters at one time or the other. It would have been appreciable, if the learned trial Judge had been little pragmatic in dealing with the issue, such as this, since it not only delays the trial of the suit, but also short circuits the cause of action in the suit, besides, adding burden to this Court in dealing with unnecessary Appeal.

5. This Court finds the reasons satisfactory enough, and therefore, desires to allow this Appeal. Accordingly, this Civil Miscellaneous Appeal is allowed and the order impugned is set aside. The trial Court is directed to restore the suit on its file and proceed with the trial, from the stage it was, when the suit was dismissed for default. The Trial Court is also directed to dispose of the suit on or before 31 December, 2018. No costs.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

To

1.The Sessions Judge, Fast Track Mahila Court,
Namakkal.

2.The Section Officer,
Judicial Department,
High Court, Chennai 104.

+1cc to M/s.N.Suresh, Advocate SR.NO.71257

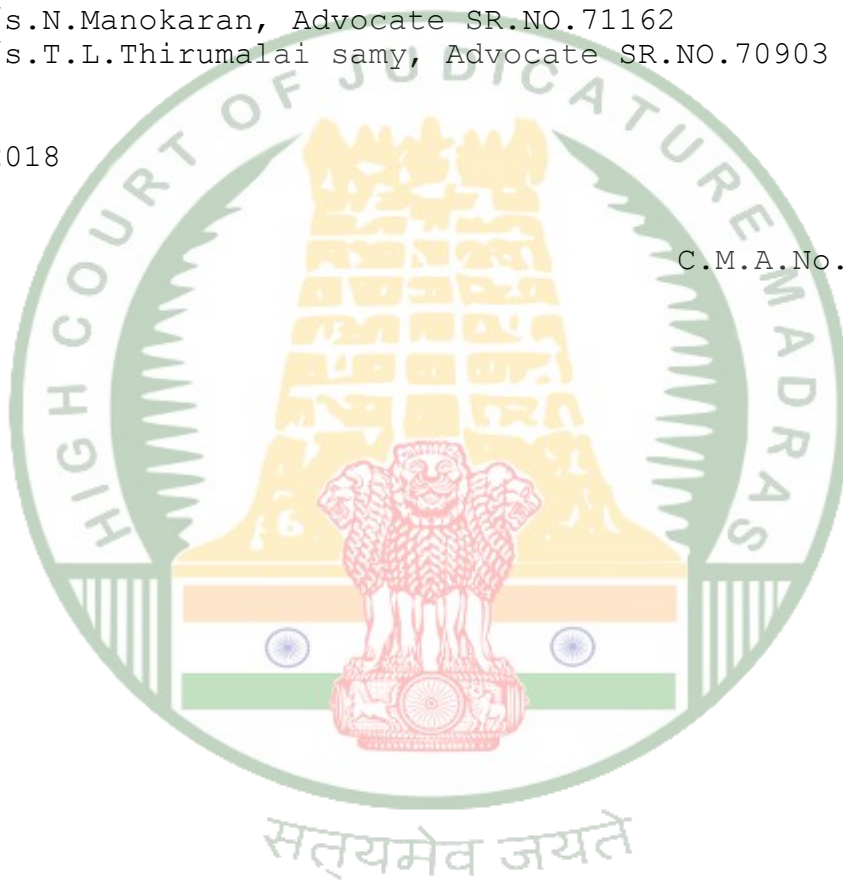
+1cc to M/s.N.Manokaran, Advocate SR.NO.71162

+1cc to M/s.T.L.Thirumalai samy, Advocate SR.NO.70903

RGN (CO)

sm:23.10.2018

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