

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED: 04.04.2018**

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**C.R.P.(NPD) No.3414 of 2010**
& M.P.No.1 of 2010

Prasath Associates,
a partnership firm represented by its
partner, Prasath, S/o Sitaramaiah
"Divya Towers"
Fort Main Road, Salem.

... Petitioner

Vs.

The Assistant Commissioner,
Salem Corporation,
Hasthampatti Zonal Office,
Salem-7.

... Respondent

Prayer: Civil Revision Petition filed under Under Section 115 of the Civil Procedure Code, against the Fair and Decretal Order of the Learned Principal Subordinate Judge, Salem dated 17.03.2010 in I.A.No.139 of 2009 for the unnumbered A.S.No. of 2010.

For Petitioner : M/s.T.M.Hariharan

For Respondent : Mr.S.Arravindan
for G.Sankaran

ORDER

The instant Civil Revision Petition has been filed against the order passed by the Principal Sub Court, Salem, in I.A.No.139 of 2009. The petitioner is the respondent in the said I.A. The petitioner had obtained a decree against the respondent in O.S.No.379 of 2008 on the file of the Principal District Munsif Court, Salem.

1.1.The respondent in the instant Civil Revision Petition filed I.A.No.139 of 2009 to condone the delay of 49 days in filing the appeal against the judgment and decree dated 24.03.2008, passed in O.S.No.379 of 2008 before the Principal Sub Court, Salem.

2.By an order dated 17.03.2010 in I.A.No.139 of 2009, the Principal Sub Court, Salem allowed the condone delay application.

3.1.Aggrieved by the said order, the respondent in I.A.No.139 of 2009 has filed the instant Civil Revision Petition. The learned counsel for the petitioner submits that the respondent did not give sufficient reason in his affidavit for condoning the delay.

3.2.As seen from the affidavit, filed by the respondent in support of I.A.No.139 of 2009, the reason given for the delay was

that after receiving the judgment and decree of the Lower Court from the Standing Counsel, the same was misplaced and mingled with other office files of the respondent. Due to the delay in tracing out the decree and judgment, a delay of 49 days arose in filing the appeal which according to the respondent is neither wilful nor wanted but only for the reason stated in the affidavit.

4.The First Appellate Court namely, the Principle Sub Court, Salem after considering both the affidavits filed by the respondent as well as counter affidavit filed by the petitioner was satisfied with the reasons given by the respondent for condoning the delay and by its order dated 17.03.2010, allowed the condone delay application I.A.No.139 of 2009 on condition that the respondent pays a sum of Rs.250 to the petitioner on or before 24.03.2010.

5.This Court is also satisfied with the reasons given by the respondent for condoning the delay of 49 days in filing the appeal before the Principal Sub Court, Salem. Further, the delay being only 49 days, there is no necessity for this Court to intervene. There is no infirmity in the order passed by the Principal Sub Court, Salem.

6. Accordingly, the instant Civil Revision Petition shall stand dismissed. Consequently, connected miscellaneous petition is also closed. However, there shall be no order as to costs.

04.04.2018

Speaking Order / Non Speaking Order

Index: Yes / No

Internet: Yes / No

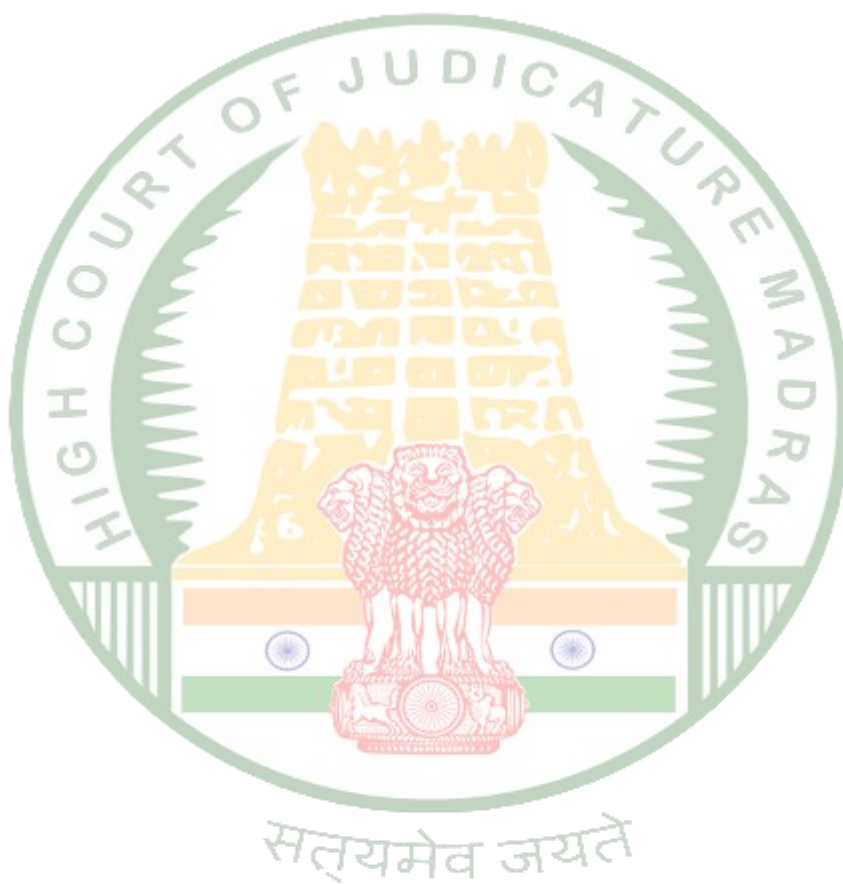
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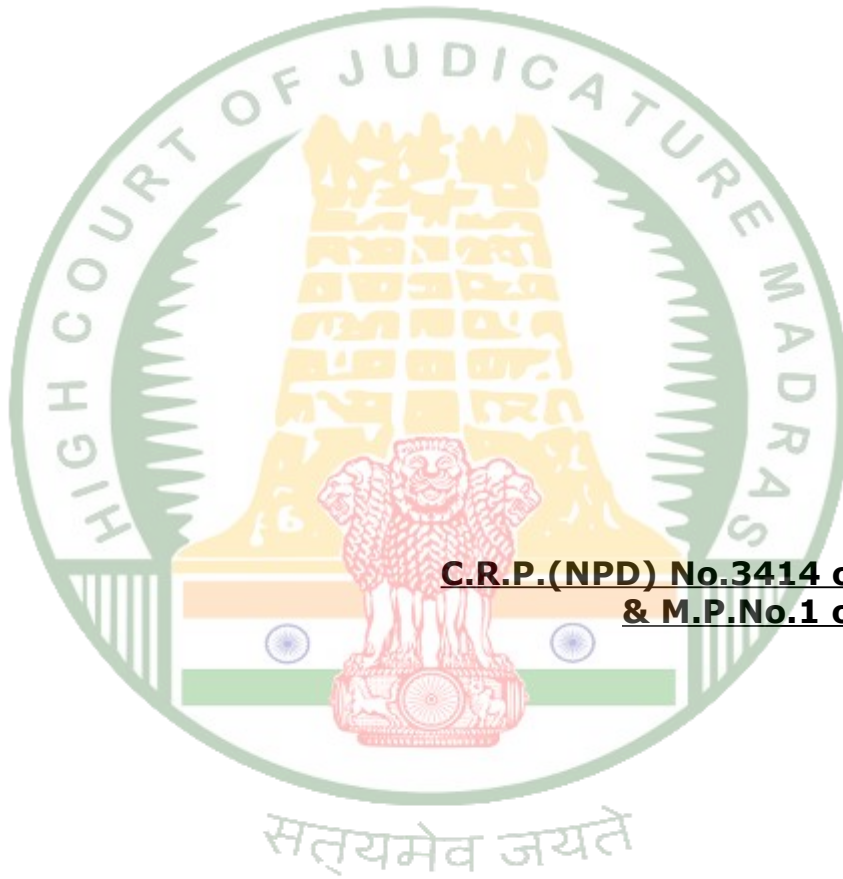
The Principal Subordinate Judge, Salem



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ABDUL QUDDHOSE, J.

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