

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.3190 of 2013

Samsu Nagar

.. Petitioner

Vs.

1.Kathija Beevi

2.Minor Rafiathul Basiria

Rep. By her natural guardian, Mother,
Rassia Begum

3.Abdul Pari

.. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 08.12.2011 made in I.A.No.822 of 2011 in O.S.No.172 of 2011 on the file of the I Additional District Munsif Court, Erode.

For Petitioner : M/s.G.Keerthana
for Mr.R.Jayaprakash

For R1 : Died

For R2 : Not ready in notice

For R3 : Mr.M.Guruprasad

ORDER

This Civil Revision Petition is filed to set aside the fair and decretal order dated 08.12.2011 made in I.A.No.822 of 2011 in O.S.No.172 of 2011 on the file of the I Additional District Munsif Court, Erode.

2.The petitioner is plaintiff and respondents are defendants in O.S.No.172 of 2011 on the file of the I Additional District Munsif Court, Erode. The petitioner filed the said suit for partition on 21.03.2011. The suit was dismissed for default on 10.06.2011 for non-payment of batta. The petitioner filed I.A.No.822 of 2011 through the counsel on record to condone the delay of 59 days in filing the petition to restore the suit. The learned Judge allowed the said application on condition that the petitioner pays a sum of Rs.250/- to the respondents 1 and 3.

3.Against the said order dated 08.12.2011 made in I.A.No.822 of 2011 in O.S.No.172 of 2011, the petitioner has come out with the present Civil Revision Petition.

4.Heard the learned counsel for the petitioner as well as the third respondent and perused the materials available on record.

5.According to the learned counsel for the petitioner, the suit was dismissed due to non-payment of the batta. Considering the fact that the petitioner is a poor widow and suit is filed among the family members, the cost imposed by the learned Judge is onerous.

The petitioner must be given an opportunity to put forth her case on merits without payment of cost.

6.Considering the contention of the learned counsel for the petitioner that the petitioner is a poor widow and the suit is for partition among family members, the order of the learned Judge in respect of imposing the conditional cost of Rs.250/- to the respondents 1 and 3 for allowing the application is set aside and the order allowing I.A.No.822 of 2011 is confirmed.

7.In the result, this Civil Revision Petition is allowed. No costs.

22.03.2018

Index :: Yes/No

gsa

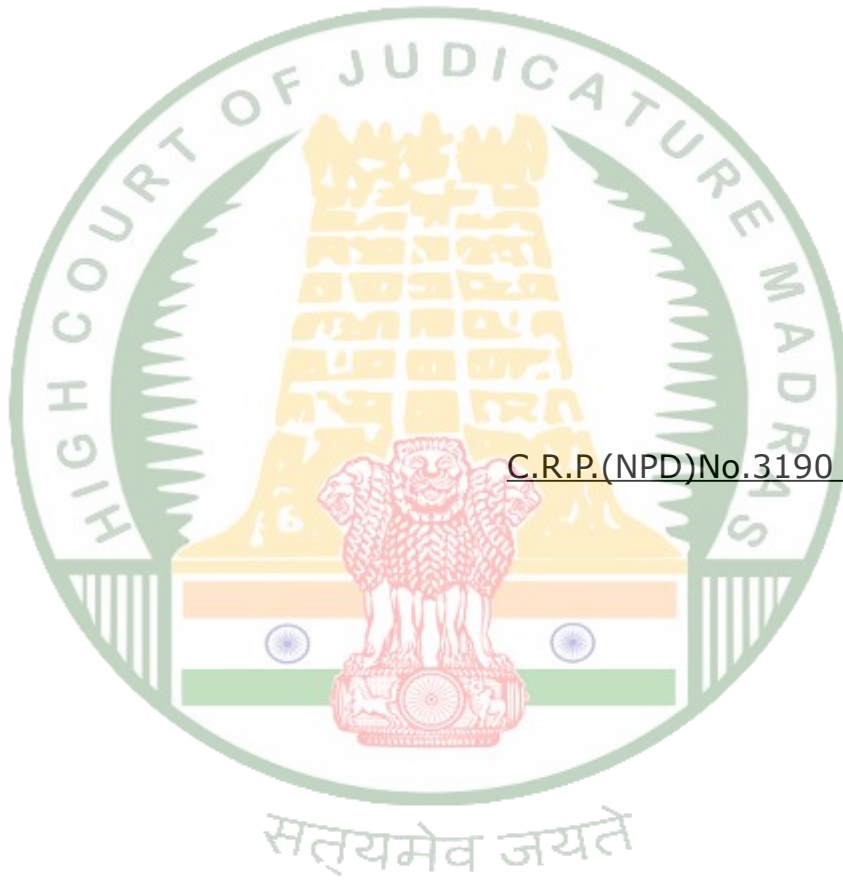
To

The I Additional District Munsif,
Erode.

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V.M.VELUMANI,J.

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