

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2018

**CORAM
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**

C.R.P.(NPD) No.4530 of 2010

Kuppu Ammal

... Petitioner

Vs.

M.Sakthivel

.... Respondent

Prayer: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, pleaded to set aside the order dated 15.09.2010 in I.A.No.167 of 2010 in O.S.No.105 of 2006 on the file of Principal District Munsiff, Ginjee.

For Petitioner : Mr.G.Rajan

For Respondent : No Appearance

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ORDER

The instant CRP has been filed against the order of dismissal dated 15.09.2010 passed in I.A.No.167/2010 in O.S.No.105/2006 by the trial Court filed by the petitioner to condone the delay in representation of the application filed by the petitioner

seeking restoration of the suit which was dismissed for default on 13.11.2006. The reason given by the petitioner for condoning the delay in representation was that she was suffering from diabetes and she was unable to contact her counsel due to her illness. The delay was only 195 days. The suit was filed for recovery of money by the petitioner against the respondents.

2. Despite the said reason given by the petitioner, the trial Court dismissed her application. According to the trial Court, the reason stated in the affidavit is not sufficient to condone the delay in representation. The reason given by the trial Court for dismissing the application is not convincing to this Court. The trial Court should have noticed that the application for restoration of the suit is dismissed for default was filed within time but only due to the reasons stated in the affidavit, there was a delay in representation of the said application.

3. Therefore, this Court is of the view that the application ought to have been allowed by the trial Court. Accordingly, the civil revision petition is allowed.

05.04.2018

Index: Yes/No
AT

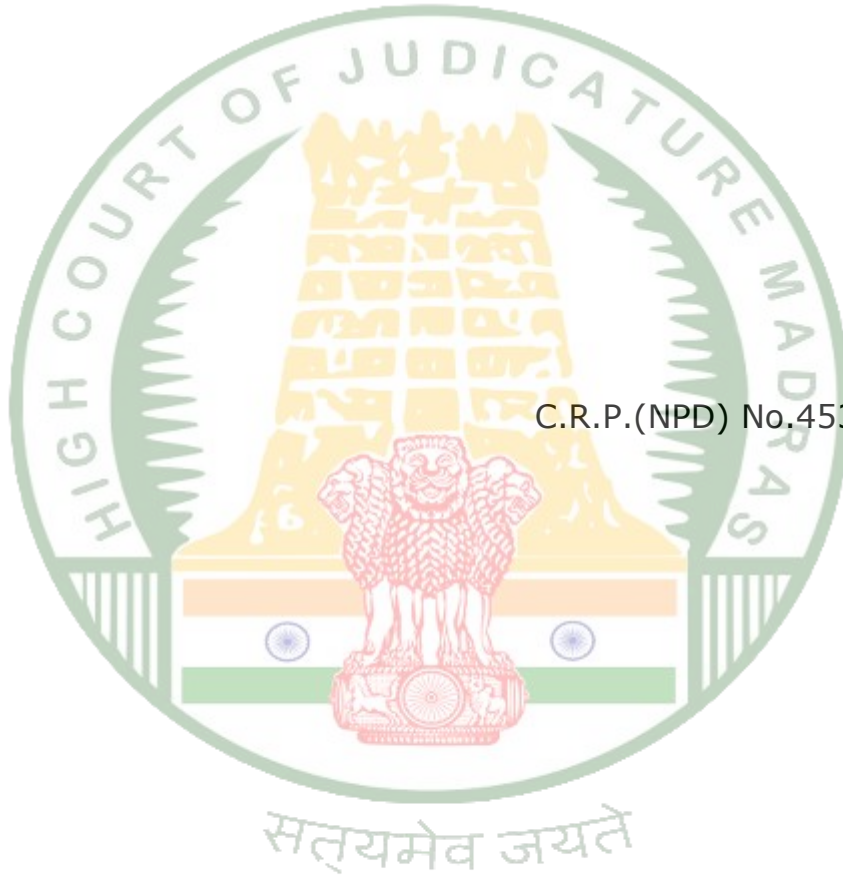
To
The Principal District Munsiff,
Ginjee.



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ABDUL QUDDHOSE,J.

AT



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