

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.04.2018

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD) No.4673 of 2010
& M.P.No.1 of 2010

D.Dananjeya Naidu

... Petitioner

Vs.

B.Kangammal

... Respondent

Prayer: Civil Revision Petition filed under Under Section 115 of the Civil Procedure Code, against the fair and decretal order dated 21.07.2009 made in I.A.No.653 of 2009 in O.S.No.324 of 2006 on the file of District Munsif Court, Gudiyatham.

For Petitioner : M/s.N.P.Kumar

For Respondent : Mr.N.Manokaran

ORDER

The instant Civil Revision Petition has been filed by the judgment debtor, against the order passed by the Trial Court, dismissing the application I.A.No.653 of 2009 seeking to condone the delay of 329 days in filing an application to set aside the *ex parte* decree dated 10.07.2008. The reason given by the petitioner in his affidavit seeking for condonation of

delay is that he was suffering from severe jaundice and thereafter Chikungunya fever and he was taking native treatment only for the said reason he could not give instructions to his counsel to cross examine Ex-PW1.

2.The Respondent/Plaintiff had also filed a counter affidavit before the Trial Court stating that no sufficient reasons has been given by the petitioner for condoning the enormous delay of 354 days. The Trial Court in its order dated 21.07.2010, being not satisfied with the reasons given by the petitioner for condoning the delay dismissed application IA No.653/2009.

3.Aggrieved by the dismissal order, the instant Civil Revision Petition has been filed by the petitioner. In support of the affidavit seeking condonation of delay, no medical certificate was filed by the petitioner to substantiate his illness as seen from the findings of the Trial Court. The petitioner had also sought time on three occasions seeking for filing counter in the execution petition. Only thereafter, the petitioner filed an application seeking condonation of delay in IA No.653 of 2009. This fact was also recorded by the Trial Court and only thereafter, the Trial Court came to the conclusion that no satisfactory reasons was given by the petitioner to condone the delay in filing the application to set aside the *ex parte* decree.

4.This Court also not satisfied with the reasons given by the petitioner for condonation of delay and is in agreement with the findings of the Trial Court. There is no legal infirmity, illegality or material irregularity in the order passed by the Trial Court.

5.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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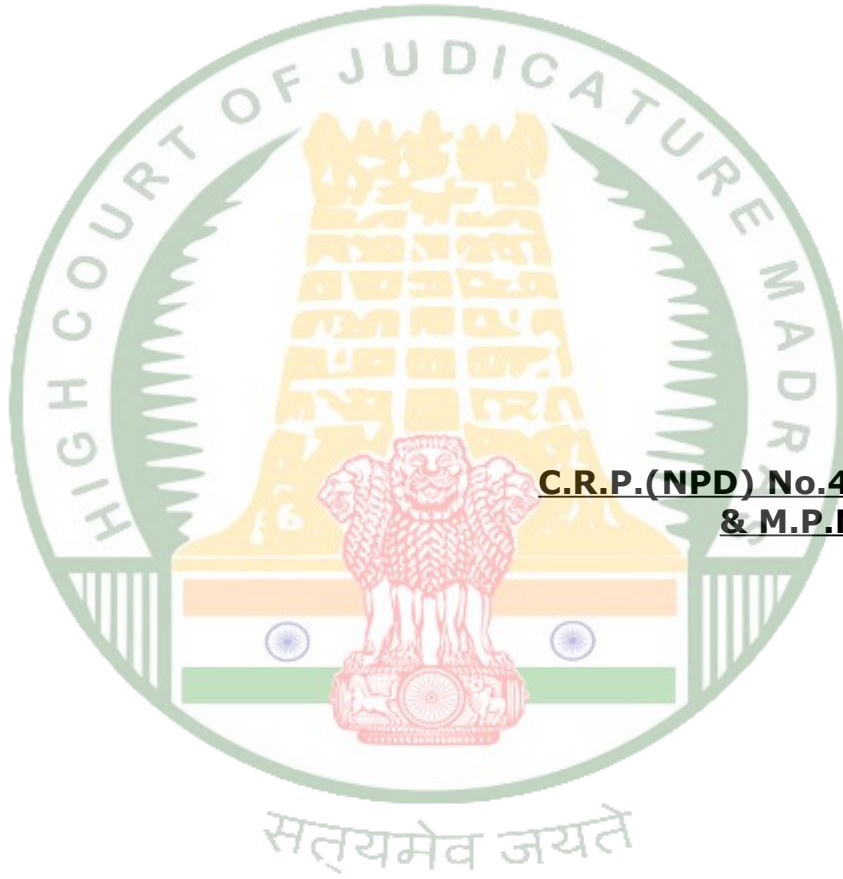
To

The District Munsif Court, Gudiyatham

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ABDUL QUDDHOSE, J.

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