

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2018

CORAM

THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE

C.R.P.(NPD).No.3715 of 2013

and

M.P.No.1 of 2013

Pitchaiyammal(died)

1.Angaiyarkanni

2.Devakumari

3.Rajendran

.. Petitioners

..Vs..

1.Uchala@Subramanian

2.Rajambal

3.Selladurai

4.Thamilselvi

5.Rajendran

(Respondents 2 to 5 are rep.by Power Agent Vaiyapuri)

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to against the Fair and Decretal Order passed by the District Munsif, Perambalur in I.A.No.716/2009 in O.S.No.677/1996, dated 16.06.2012.

For Petitioners

: Mr.R.Subramaniam

ORDER

The instant revision has been filed by the Petitioners challenging the order dated 16.06.2012 in I.A.No.716 of 2009 in O.S.No.677 of 1996 on the file of the learned District Munsif, Perambalur.

Brief facts leading to the filing of the revision:

2. The petitioners filed a bare injunction suit O.S.No.677 of 1996 against the respondents. The suit O.S.No.677 of 1996 was dismissed for default on 18.12.2008. I.A.No.716 of 2009 in O.S.No.677 of 1996 was filed by the petitioners to condone the delay in filing an application to restore the suit which was dismissed for default. The respondents also filed their counter in I.A.No.716 of 2009 in O.S.No.677 of 1996. By order dated 16.06.2012 in I.A.No.716 of 2009 in O.S.No.677 of 1996, the Trial Court allowed the condone delay application filed by the petitioners on condition that they pay a sum of Rs.1,000/- as costs to the respondents. The petitioners did not pay the costs as directed by the Trial Court in I.A.No.716 of 2009 in O.S.No.677 of 1996, instead, they filed the instant Civil Revision Petition, aggrieved by the said order dated 16.06.2012.

Submissions of the learned counsel:

3. Heard, Mr.R.Subramaniam, learned counsel appearing for the petitioners.

4. The learned counsel for the petitioners submits that the law is now well settled in view of the Division Bench judgment of this Court in the case of *Gowri Ammal vs. Murugan and others* reported in **2006 (3) CTC 418** which enables the petitioners to seek extension of time for payment of costs under Section 148 of Code of Civil Procedure read with Section 151 of Code of Civil Procedure, even beyond the period of 30 days. In view of the settled law, the learned counsel seeks permission of this Court to grant liberty to the petitioners to file an application under Section 148 of Code of Civil Procedure read with Section 151 of Code of Civil Procedure seeking extension of time to pay the costs as directed by the Trial Court in I.A.No.716 of 2009 in O.S.No.677 of 1996 by its order dated 08.07.2009.

Discussion:

5. This Court has perused the Division Bench judgment reported in **2006 (3) CTC 418** cited supra and convinced that, in view of the settled law, the petitioner is entitled to file an application under Section 148 of Code of Civil Procedure read with Section 151 of Code of Civil Procedure before the trial Court and seek extension of time for paying the costs of Rs.1,000/- as directed by the Trial Court in I.A.No.716 of 2009 in O.S.No.677 of 1996 by its order dated 08.07.2009.

Conclusion:

6. In the result, this Court grants liberty to the petitioners to seek extension of time for payment of costs before the Trial Court by filing an application under Section 148 of Code of Civil Procedure read with Section 151 of Code of Civil Procedure, within a period of four weeks from today i.e., from 22.11.2018 for complying with the conditional order dated 08.07.2009 passed by the Trial Court in I.A.No.716 of 2009 in O.S.No.677 of 1996. On filing of such application, the Trial Court shall dispose of the same, after giving notice to the respondents in accordance with law.

7. With the above directions, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

22.11.2018

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Index:Yes/No

Internet:Yes/No

Speaking/Non-speaking orders

Note: Issue order copy on **26.11.2018**

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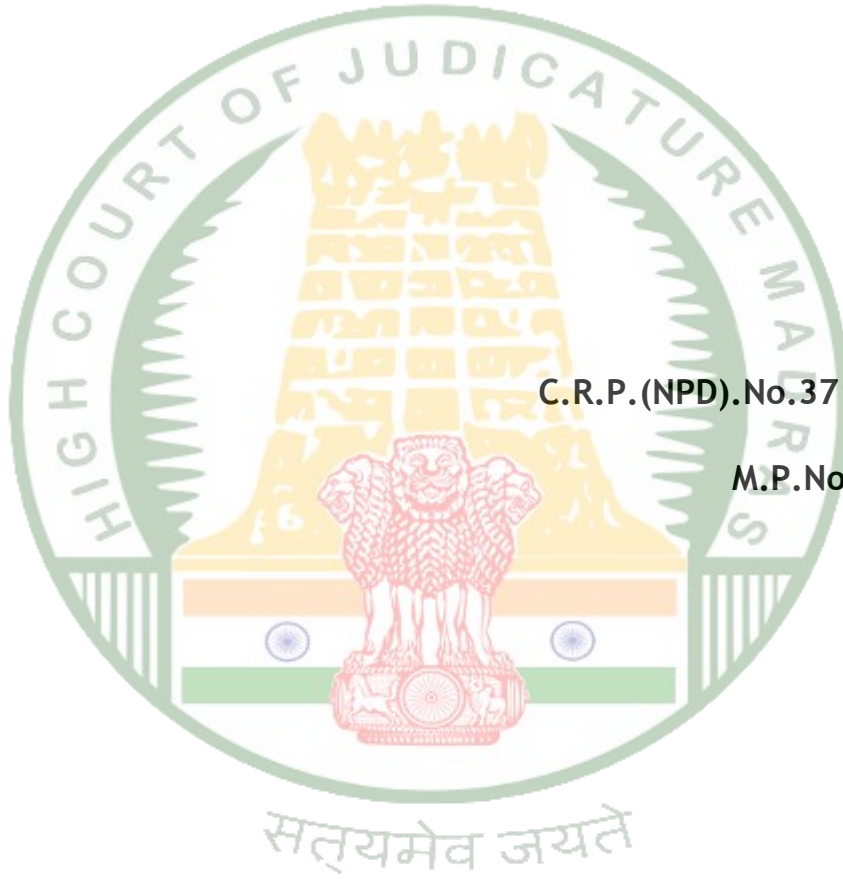
The District Munsif,
Perambalur.



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ABDUL QUDDHOSE, J.

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