

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2018

CORAM

THE HONOURABLE Mr. JUSTICE M.S. RAMESH

C.R.P(N.P.D)No. 2583 of 2017

and

C.M.P.No.12294 of 2017

Meena

..Petitioner

-Vs-

1. Krishnan

2. Jayalakshmi

..Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Civil Procedure Code, 1908 praying to set aside the Fair and Decretal Order passed in I.A.No.205 of 2015 in O.S.No.49 of 2014 dated 02.03.2017 on the file of the Principal Subordinate Judge at Puducherry by allowing the present Civil Revision Petition.

For Petitioner : Mr.R.Jayaprakash

For Respondents : No Appearance

ORDER

The prayer sought for in the present revision is to set aside the Fair and Decretal Order passed in I.A.No.205 of 2015 in O.S.No.49 of 2014 dated 02.03.2017 on the file of the learned Principal Subordinate Judge, Puducherry.

2. The petitioner herein is a defendant in the suit filed for declaration and recovery of possession. By an order dated 24.10.2014, an ex-parte judgment and decree came to be passed against the petitioner herein. The present order under challenge in the revision is to set aside the order dismissing the petition to condone the delay of 292 days in filing the application to set aside the ex-parte decree. The trial Court by observing that though sufficient opportunities were granted to the petitioner herein for appearance, had not chosen to contest the case and therefore had rejected the application.

3. Heard, Mr.R.Jayaprakash, learned counsel for the petitioner and there is no representation on behalf of the respondents today as well as in the earlier hearing on 01.10.2018.

4. On a perusal of the application to condone the delay, it is seen that the petitioner had adduced reasons for the delay by stating that she was suffering from medical ailment, owing to which, she was living in Krishnagiri along with her brother.

5. The Court below, however, had not considered the aspect of her medical ailment. Since there is no representation on behalf of the respondents also, I am of the view that they have no remarks to offer. The present suit is for declaration of title and the learned counsel for the petitioner submitted that she has valid and arguable points to defend the suit.

6. In view of the above, it would be appropriate to give an opportunity to the petitioner herein to defend the suit by putting her on terms.

7. In the light of the above observations, the order passed in I.A.No.205 of 2015 in O.S.No.49 of 2014 on the file of the learned Principal Subordinate Judge, Puducherry is set aside. Consequently, the delay of 292 days in filing the application to set aside, the ex-parte judgment and decree dated 24.10.2014 passed in O.S.No.49 of 2014 is condoned, on condition that the petitioner pays a sum of Rs.5,000/- (Rupees Five Thousand only) to the Tamilnadu Juvenile Justice Fund, Ministry of Social Defence, Old No.153, New No.30, Pursawalkam High Road, Kellys, Chennai – 600010 [A/c.No.358001000000671, Indian Overseas Branch, Kellys Branch, Chennai – 600010] within a period of

30 days from the date of receipt of a copy of this order. The cash memo shall be produced along with the copy of this order before the learned Principal Subordinate Judge, Puducherry.

8. With the above observations and directions, the Civil Revision Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

23.10.2018

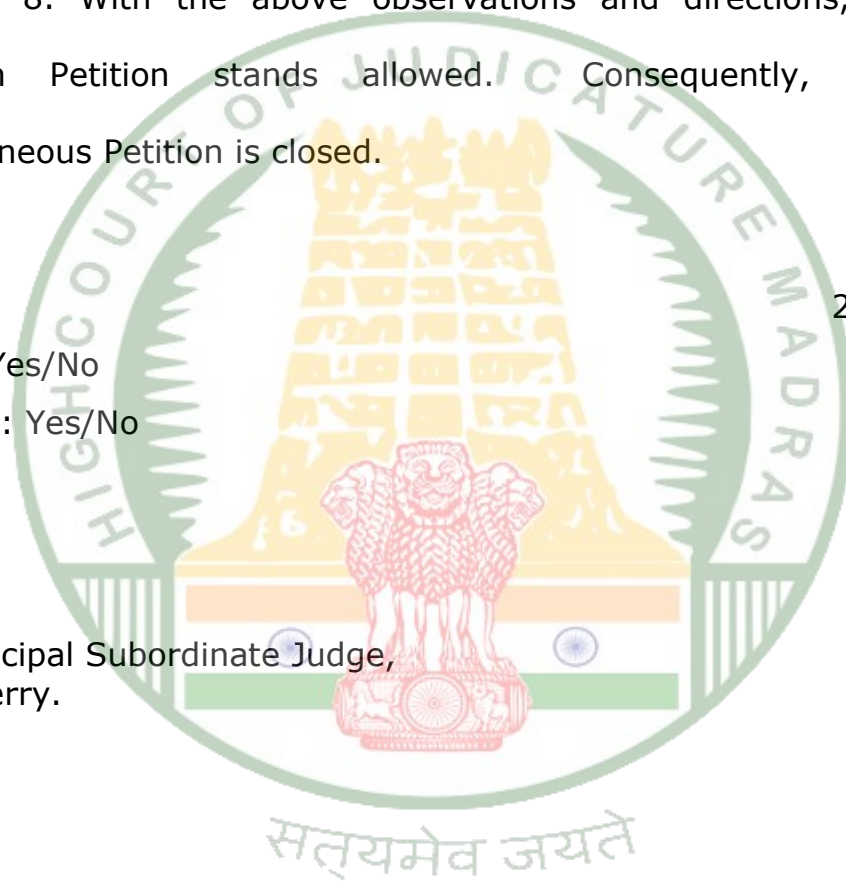
Index: Yes/No

Internet: Yes/No

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To

The Principal Subordinate Judge,
Puducherry.



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M.S.RAMESH,J.

dh



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