

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 25.09.2018**

**CORAM**

**THE HONOURABLE MR. JUSTICE M.S. RAMESH**

**C.R.P.(NPD) No.3421 of 2017 and**  
**C.M.P.No.15923 of 2017**

K.Ramachandran ....Petitioner

Vs

Palaniammal ....Respondent

**PRAYER:** Civil Revision Petition filed under Section 115 of Civil Procedure Code praying to set aside the fair and final order dated 23.09.2014 made in I.A.No.130 of 2014 in I.A.No.346 of 2013 in O.S.No.98 of 2012 on the file of the learned II Additional Sub Judge, Salem.

For Petitioner : Mr.A.Esakkiappan

For Respondent : No appearance

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**ORDER**

The present Civil Revision Petition has been filed against the Order rejecting the petitioner's application seeking for condoning the delay of 175 days in filing the application to set aside the exparte decree.

2. The reason assigned in the affidavit filed along with the application to condone the delay before the court below is that the petitioner was suffering from severe illness from 1<sup>st</sup> September, 2013 and hence, he was unable to meet his counsel. The court below had however, disbelieved the version and observed that since no medical records were produced along with the statement, the application was dismissed.

3. The learned counsel for the petitioner submitted that the present suit is one for partition and that due to his genuine medical ailment, he was unable to meet the counsel for the purpose of instructing him to get along with the suit. He would further submit that such an application ought to have been liberally considered by the court below and that the delay of 175 days was not an inordinate one.

4. Though notice has been served on the respondent and her name has been printed in the cause list, today, none appears on her behalf. This Court is of the view that owing to the non-appearance of the respondent herein, she has no remarks to offer.

5. Taking into consideration that the delay was of 175 days, for which the petitioner has assigned his medical ailment as a reason, the court

below ought to have taken a liberal approach and condoned the delay.

6. In the light of the above observations, the order dated 23.09.2014 passed in I.A.No.130 of 2014 in I.A.No.346 of 2013 in O.S.No.98 of 2012 on the file of learned II Additional Subordinate Judge, Salem is set aside. Consequently, the delay of 175 days in filing the application to set aside the exparte decree, viz., I.A.No.130 of 2014 stands condoned.

Accordingly, the Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

**25.09.2018**

Index:yes/no  
Internet:yes/no  
Speaking order / Non-speaking order  
ssd

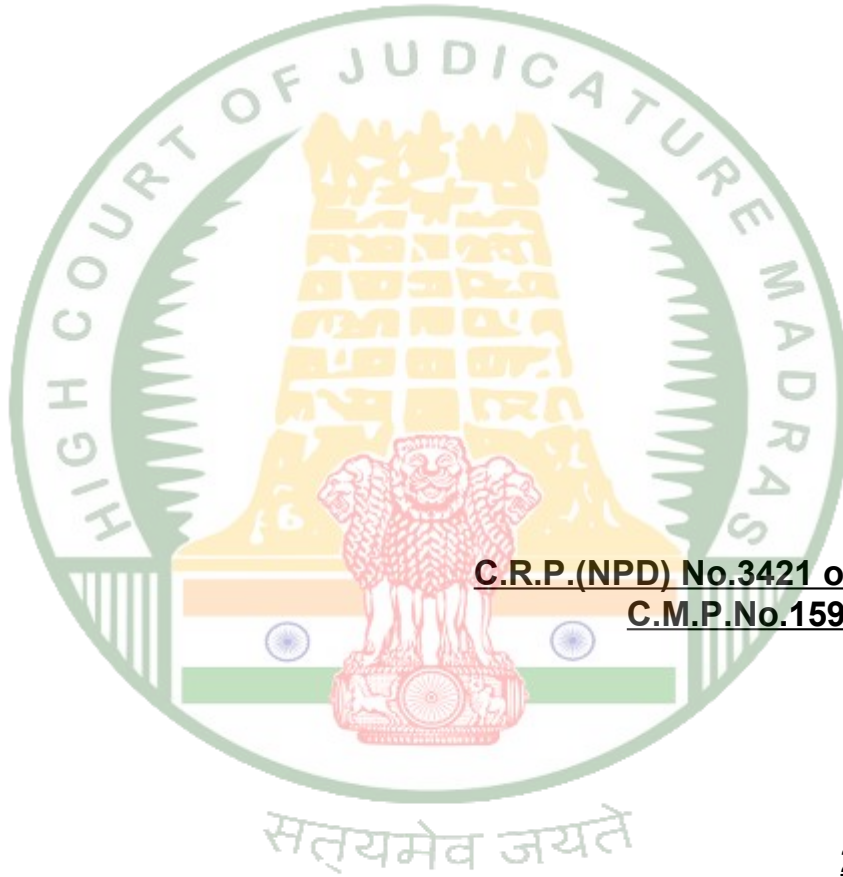
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**M.S. RAMESH.J.,**

ssd

To

The Learned II Additional Subordinate Judge,  
Salem.



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**25.09.2018**

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