

IN THE COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2018

CORAM

THE HONOURABLE MR.JUSTICE M.S.RAMESH

CRP.(PD).No.484 of 2017

and

CMP.No.6769 of 2018

Meharunnisa

... Petitioner

Versus

Thiyagarajan(Died)

1.M.Ramamurthi

2.Boopathy

3.Janaki

4.Balachandar

5.Meenakshi

... Respondents

Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the Fair and Decreetal order dated 16.09.2016 passed in I.A.No.114 of 2015 in O.S.No.1082 of 2004 on the file of the II Additional District Munsif, Erode.

For Petitioner : Mr.P.Jagadeesan

For Respondents : Mr.S.Saravanan (for R2)

: No Appearance (for R1, R3 to R5)

ORDER

This Civil Revision Petition has been filed challenging the fair and decreetal order dated 16.09.2016 passed in I.A.No.114 of 2015 in O.S.No.1082 of 2004 on the file of the learned II Additional District Munsif, Erode, wherein and whereby the application filed by the petitioner seeking to condone the delay of 1990 days in filing the petition to implead the legal heirs of the deceased first defendant was dismissed.

2.The reason adduced by the petitioner/plaintiff for not bringing the Legal Heirs of the 1st defendant (deceased) in time is that the suit was earlier dismissed for default and an application filed to set aside and restore the suit was also dismissed, against which, a Civil Miscellaneous Appeal in C.M.A.No.27 of 2008 was filed. The said CMA was allowed and the suit was restored. Subsequently, the defendant was set exparte and the suit was also decreed. Later, an application made by the defendants to set aside the exparte decree was allowed and the suit was restored.

3.It is the submission of the learned counsel for the petitioner/plaintiff that the petitioner was not aware of the demise of the 1st defendant and she came to know about the details belatedly. All these reasons provided by the petitioner put together would only go to show that the petitioner herein may not have deliberately delayed the proceedings. Nevertheless, since the delay of 1990 days is inordinate, it would be appropriate to put the petitioner on terms.

4.In the light of the above observations, the impugned order passed in I.A.No.114 of 2015 in O.S.No.1082, dated 16.09.2016, on the file of the learned II Additional District Munsif, Erode is set aside. Consequently, the delay of 1990 days is condoned, subject to the condition that the petitioner pays a sum of Rs.10,000/- (Rupees Ten thousand only) to the defendants/respondents by way of costs, on or before 07.01.2019.

5.Since the suit is pending from the year 2004 onwards, the learned trial Judge shall endeavor to complete the suit proceedings as expeditiously as

possible, in any event, within a period of six month from the date of receipt of a copy of this order.

6. Accordingly, the Civil Revision Petition is ordered. Consequently, connected Miscellaneous Petition is closed. No costs.

21.12.2018

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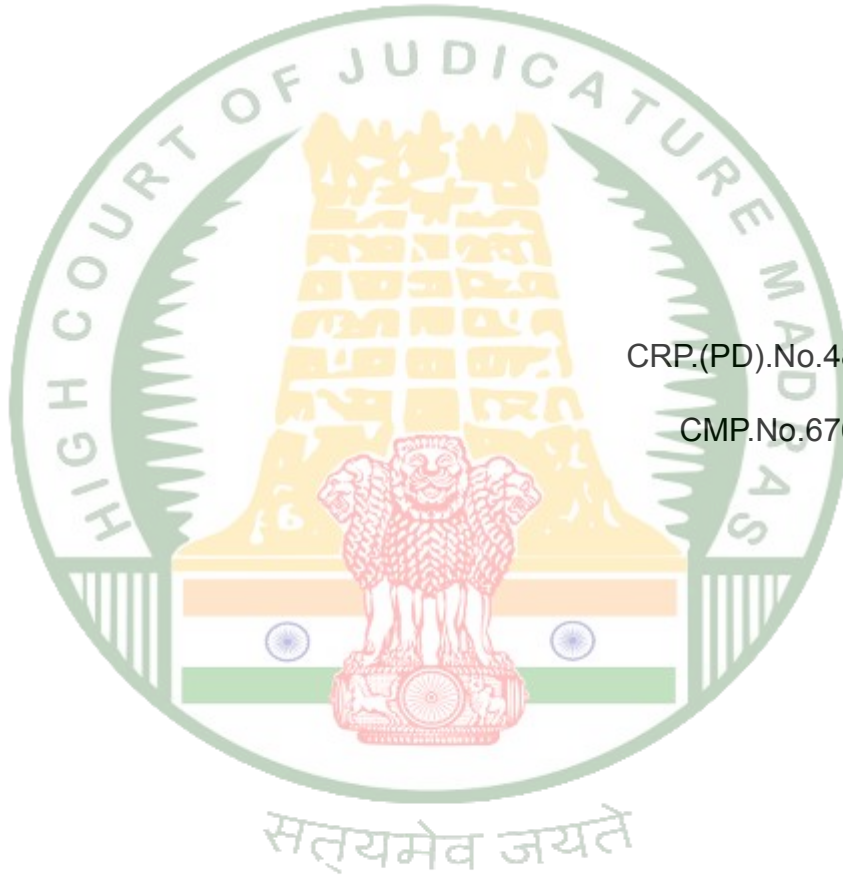
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