

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP(NPD).No.2184 of 2010

Chinnakannan

... Petitioner

vs.

1.Annamalai

2.Chinnasamy

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code against the fair and decreetal orders dated 09.08.2004 in IA.No.79 of 2004 in unnumbered AS in OS.No.232 of 1986 on the file of the Principal District Judge, Dharmapuri at Krishnagiri

For Petitioner : Mr.V.Nicholas

For Respondents : Mr.Lakshminarayanan
for M/s.Raghavachari

ORDER

The present revision petitioner is the plaintiff in OS.No.232 of 1986 on the file of the District Munsif Court, Krishnagiri. The suit was partly decreed on 21.09.1994. Aggrieved over the decree and Judgment dated 21.09.1994, the plaintiff filed an Appeal Suit on 17.12.1994 before the Principal District Court, Dharmapuri. After several returns of the appeal, it was finally returned on 12.06.1995. Thereafter, the plaintiff did not represent the same and only on 29.07.2004, he represented the appeal before the learned Principal District Judge, Dharmapuri at Krishnagiri after rectifying the defects pointed out by the court along with a petition in IA.No.79 of 2004 to condone the delay of nine years and eighteen days in representing the appeal and the said petition was dismissed on 09.08.2004.

2. The learned Principal District Judge, Dharmapuri at Krishnagiri in his orders dated 09.08.2004 had observed thus:

"The reasons assigned is not only unbelievable, but also insufficient. If at all the advocate had not informed the petitioner of the fate of the appeal memorandum, one can understand the petitioner waiting for a year or a couple of years in the hope of receiving a communication from the advocate. No prudent man will sit idle for nearly a decade even without ascertaining whether the

appeal memorandum has been taken on file and numbered. This court sees no merits in this petition."

3. Aggrieved over the orders passed by the learned Principal District Judge, Dharmapuri at Krishnagiri, the plaintiff has filed the present Civil Revision Petition under Section 115 of Civil Procedure Code.

4. Mr.V.Nicholas, learned counsel appearing for the revision petitioner would contend that since the revision petitioner trusted his counsel and his counsel did not represent the appeal memorandum on time, there is a delay of nine years and eighteen days. According to him, the learned Principal District Judge, Dharmapuri at Krishnagiri has dismissed the petition without considering the case of the revision petitioner.

5. *Per contra*, Mr.Lakshminarayanan, learned counsel appearing for the respondents drew the attention of this court to the affidavit filed by the revision petitioner in IA.No.79 of 2004 and contended that the allegations made by the revision petitioner is very vague and bald and he has also put the entire blame on the counsel. He would further contend that when an appeal has not been numbered, there is no question of the counsel informing the revision petitioner for his appearance before the court. He

would therefore contend that the reasons mentioned by the revision petitioner in the affidavit filed in support of the petition in IA.No.79 of 2004 are not acceptable.

6. There is force in the contentions of the learned counsel appearing for the respondents and the reasons assigned by the revision petitioner in IA.No.79 of 2004 for condoning the delay of nine years and eighteen days are not acceptable and the orders passed by the learned Principal District Judge, Dharmapuri at Krishnagiri are well founded. Therefore, I do not see any reason to interfere with the findings recorded by the learned Principal District Judge, Dharmapuri at Krishnagiri, especially, when the civil revision petitioner was not diligent in prosecuting his case.

7. Hence, the present Civil Revision Petition is dismissed. No costs.

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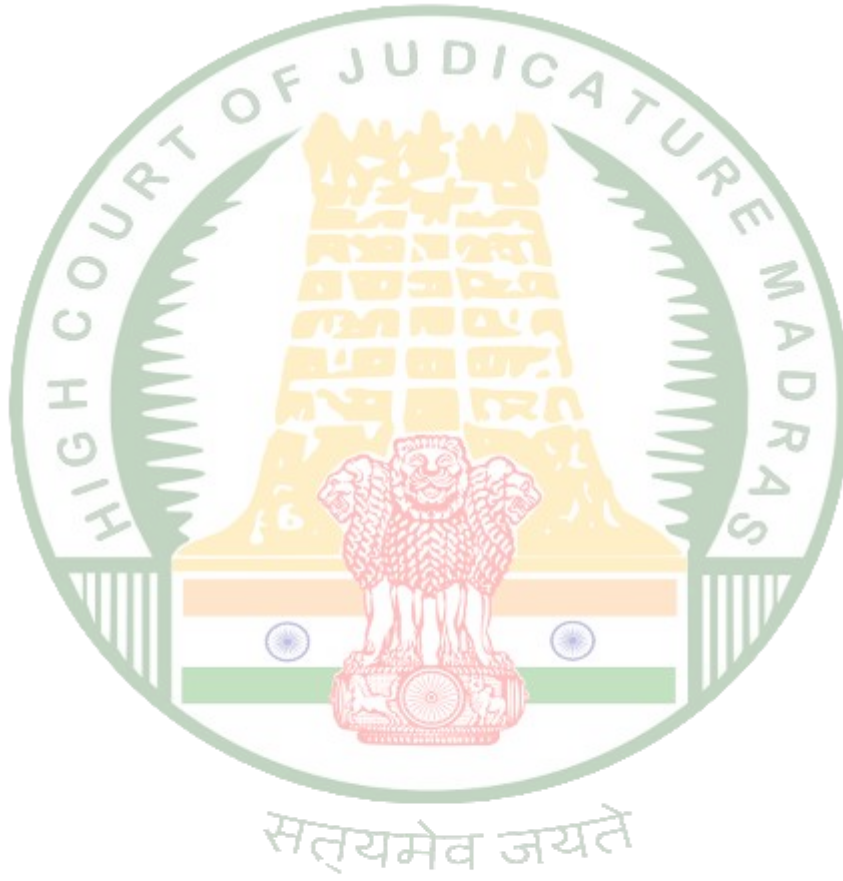
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Index : Yes/No

Speaking/Non-speaking order

To

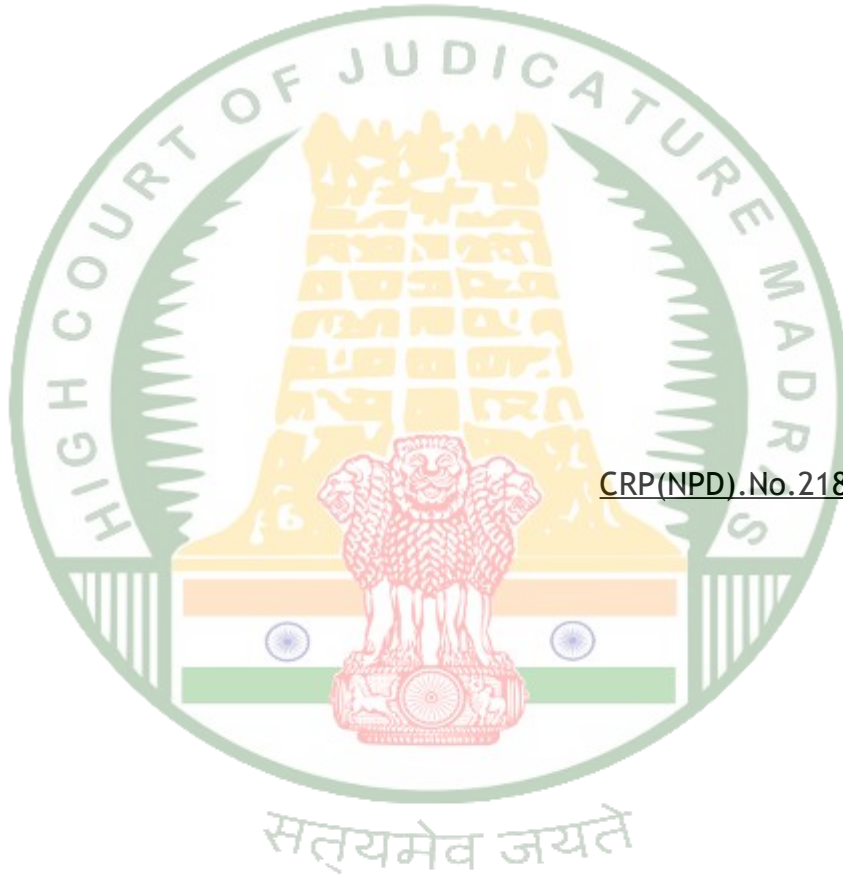
The Principal District Judge,
Dharmapuri at Krishnagiri.



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R.HEMALATHA, J.

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