

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2019

Coram

The Honourable Mrs. **Justice R.HEMALATHA**

C.R.P.(NPD)No.2230 of 2010

Veerabhadran

... Petitioner

Vs.

1.Pattu alias Kalyani
2.K.Srinivasan
3.K.Raji
4.K.Narayanan
5.Dhandapani

... Respondents

This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the Fair and Decreetal Order dated 14.07.2006 passed in I.A.No.55 of 2005 in an un-numbered CMA.No. of 2005 by the learned Principal District Judge, Villupuram.

For Petitioner : Mr.T.S.Baskaran

For Respondents : Mr.T.Dhanyakumar for R1
Mr.J.Kamaraj for R3 and R4

ORDER

The present civil revision petition has been filed against the orders dated 14.07.2006 passed in I.A.No.55 of 2005 in an un-

numbered CMA.No. of 2005, by the learned Principal District Judge, Villupuram.

2.Earlier on 27.06.2019, the learned counsel appearing for the civil revision petitioner filed a memo stating that notice to the second respondent may be dispensed with since he is only a vendor and may not have any interest in the suit property. He further stated that even in the suit in O.S.No.107 of 2000 on the file of the Sub Court, Villupuram, the second respondent remained absent and was set exparte. In view of the same, notice to the second respondent is dispensed with and the memo is recorded.

3.The civil revision petitioner is the appellant in the un-numbered C.M.A.No. of 2005 on the file of the principal District Judge, Villupuram. The revision petitioner filed civil miscellaneous appeal along with an application in I.A.No.55 of 2005 under Section 5 of the Limitation Act praying to condone the delay of 360 days in filing the civil miscellaneous appeal. The respondents filed their counter. The learned Principal District Judge, Villupuram, after analysing the evidence on record, dismissed the application vide his fair and decretal orders dated 14.07.2006 on the following grounds.

i)The petitioner had raised certain allegations against the staff members of the Court for issuing a copy of some other judgment and

ii)The petitioner has not shown sufficient cause for condoning the delay of 360 days in filing the civil miscellaneous appeal.

Aggrieved over the said orders passed by the learned Principal District Judge, Villupuram, the present civil revision petition is filed.

4.The main contention of the civil revision petitioner is that though the orders in I.A.No.32 of 2001 was passed on 31.12.2003, copies of the fair and decreetal orders were issued to him only on 10.12.2004. According to the revision petitioner he was suffering from jaundice from 01.12.2004 and was unable to prefer the appeal in time. Therefore, he prayed for condoning the delay of 360 days in filing the civil miscellaneous appeal. Normally a litigation should end only on merits. The dismissal of the petition to condone the delay in filing appeal closes the door of the revision petitioner. In the instant case, the revision petitioner is a purchaser of one of the items of the suit properties. When sufficient cause is shown for condoning the delay, the learned Principal District Judge, Villupuram should have allowed the application. The learned Principal District Judge also did not consider the averments made in the affidavit filed by the petitioner in proper perspective. Therefore, the order passed by the

learned Principal District Judge, Villupuram is liable to be set aside.

5.In the result, the civil revision petition is allowed. No costs.

17.07.2019

rrg

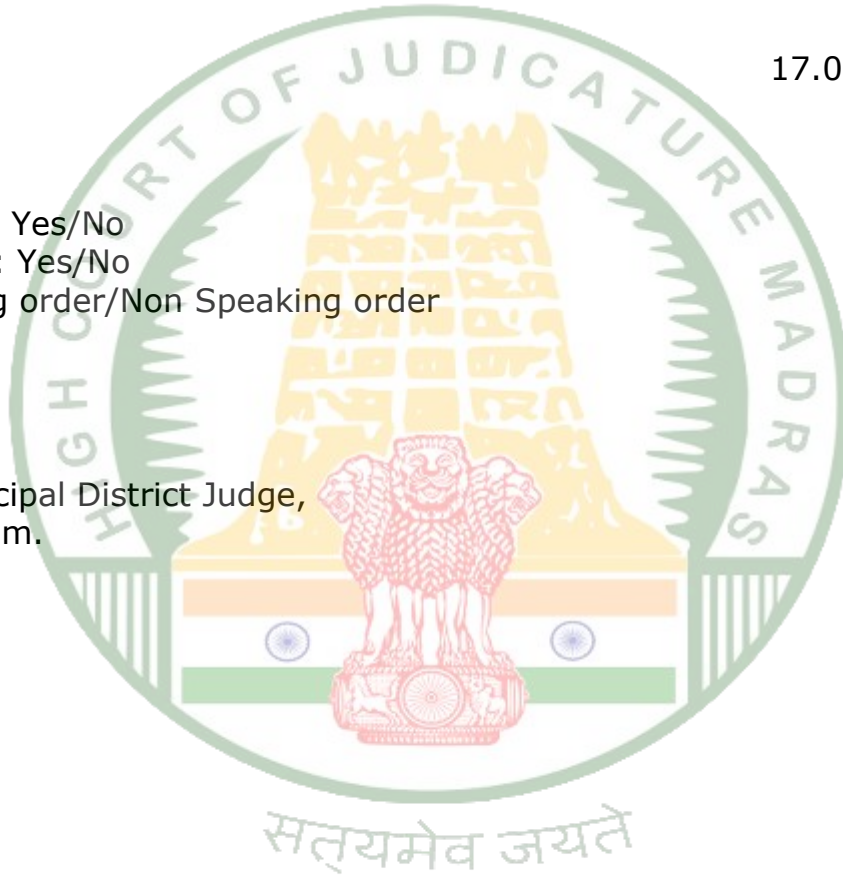
Index : Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

To

The Principal District Judge,
Villupuram.



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CRP.(NPD)No.2230 of 2010

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17.07.2019