

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2019

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

CRP(NPD).No.2414 of 2010

Elumalai

....Petitioner

vs.

1.Mari

2.Marimuthu

3.Pavunaya

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Code of Civil Procedure against the fair and decreetal order dated 02.01.2007 in IA.No.256 of 2006 in AS.No. of 2006 on the file of the Principal Subordinate court, Villupuram.

For Petitioner : Mr.T.Dhanyakumar

For Respondents : No appearance

ORDER

The civil revision petitioner is the third defendant in OS.No.280 of 1999 on the file of the District Munsif, Thirukovilur. The first respondent

herein filed the above suit for recovery of a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) together with interest at the rate of 9% per annum from the present civil revision petitioner as well as the other defendants in OS.No.280 of 1999. The defendants filed their written statements and both parties went for trial.

2. The learned District Munsif, Thirukovilur after full contest, decreed the suit in OS.No.280 of 1999. Subsequently, the decree holder filed EP.No.227 of 2003 before the learned District Munsif, Thirukovilur. The civil revision petitioner entered appearance through an advocate in the said Execution Petition. Thereafter, he filed an appeal against the decree and Judgment passed by the learned District Munsif, Thirukovilur along with a petition in IA.No.256 of 2006 to condone the delay of 1085 days in filing the appeal before the learned Principal Subordinate Judge, Villupuram.

3. The learned Principal Subordinate Judge, Villupuram after analysing the evidence on record, dismissed the IA.No. 256 of 2006. Aggrieved over the orders dated 02.01.2007 in IA.No.256 of 2006 passed by the learned Principal Subordinate Judge, Villupuram, the present Civil Revision Petition is filed.

4. Mr.T.Dhanyakumar, learned counsel appearing for the civil revision petitioner would contend that since the civil revision petitioner was suffering from jaundice, he could not file an appeal on time and that a copy of the decree and Judgment passed by the trial court on 18.03.2002 was received by the revision petitioner only on 03.04.2003 and therefore, the delay of 1085 days in filing the appeal should be condoned.

5. No appearance on behalf of the respondents.

6. A perusal of the records shows that immediately after passing of the decree by the trial court, the decree holder filed EP.No.227 of 2003 in which the present civil revision petitioner entered appearance on 18.12.2003. The civil revision petitioner also made an endorsement in EP.No.227 of 2003, that he is ready to pay the decree amount. It is clear from the records that the civil revision petitioner had clearly admitted that he is bound to pay the decree amount. Therefore, no useful purpose would be served by allowing this application. Even otherwise, the civil revision petitioner who appeared before the Executing Court on 18.12.2003 did not file any appeal against the decree and Judgment passed in OS.No.280 of

1999. The appeal is filed only in the year 2006. The civil revision petitioner did not also adduce sufficient evidence to condone the delay of 1085 days. Furthermore, the civil revision petitioner has no arguable points in the appeal as he had made an endorsement in Execution Petition admitting his liability to pay the decree amount.

7. Therefore, I do not see any reason to interfere with the findings recorded by the learned Principal Subordinate Judge, Villupuram. In the result, the Civil Revision Petition is dismissed. No costs.

mbi

26.06.2019

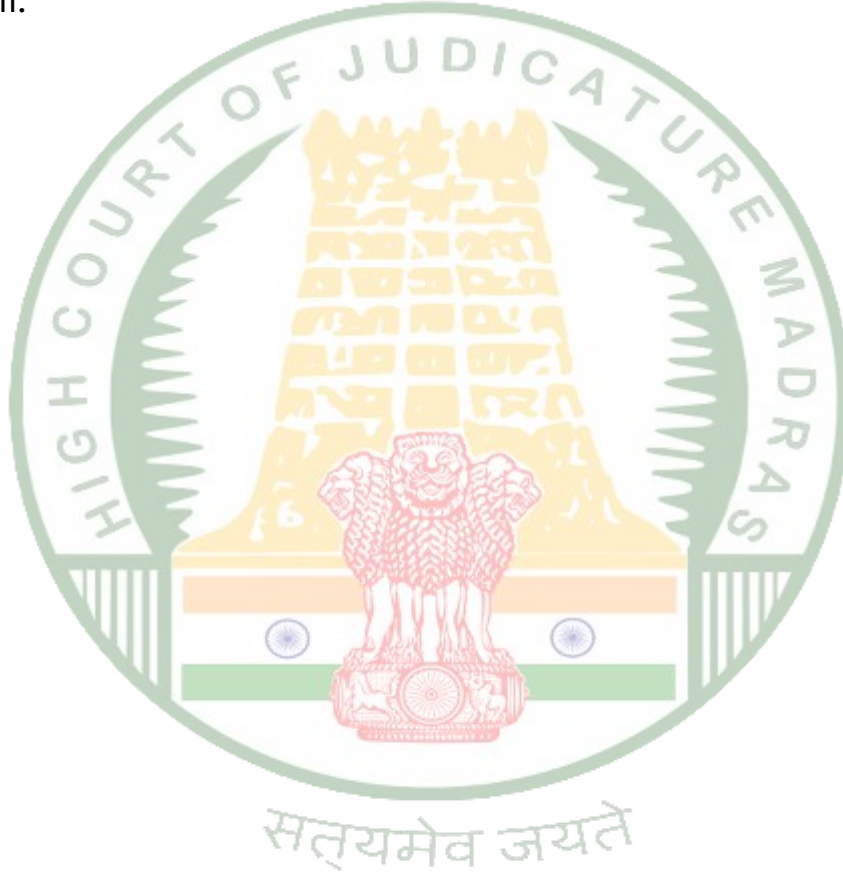
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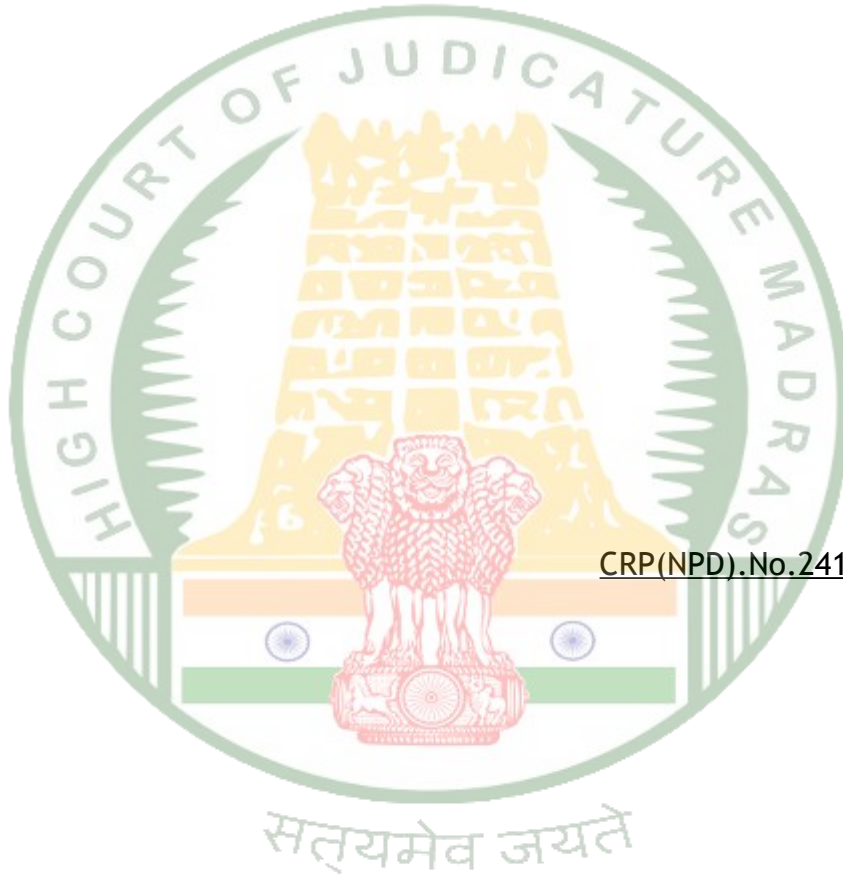
The Principal Subordinate Court,
Villupuram.



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R.HEMALATHA, J.

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