

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

**THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN**

CRP(NPD).No.2719 of 2010

and

M.P.No.1 of 2010

M.Govindarajulu

... Petitioner/Petitioner

Versus

1.V.Jayaprakash

2.Balaji

3.Harisbabu

... Respondents/Respondents

This Civil Revision Petition has been filed under Section 115 of C.P.C., to set aside the order dated 05.03.2010, made in I.A.No.18 of 2009 in unnumbered CMA.No. of 2009, on the file of the learned Principal District Judge, Krishnagiri.

For Petitioner

: Mr.M.Raja Sekhar

For R1

: No appearance

For R2 & R3

: Ms.S.Revathi

**ORDER**

The Civil Revision Petition has been filed to set aside the order dated 05.03.2010, made in I.A.No.18 of 2009 in unnumbered CMA.No. of 2009, on the file of the learned Principal District Judge, Krishnagiri.

2 The plaintiff in O.S.No.297 of 2003 is the revision petitioner. The petitioner herein filed O.S.No.297 of 2003 for specific performance of the suit agreement and the same was dismissed for default. He filed I.A.No.55 of 2007 before the Sub

Court, Krishnagiri to restore the above suit and the petitioner did not serve notice of hearing on the respondent for several hearings. The learned Sub Judge, Krishnagiri, has dismissed the said petition for default on 23.10.2007. Further, he had filed another I.A.No.134 of 2008 to restore I.A.No.55 of 2007, since, the affidavit was not filed by the party, the learned Sub Judge finding fault with the party and also deliberation on the part of the party to prosecute the suit, dismissed the I.A.134 of 2008 to restore the earlier I.A.No.55 of 2007, which was filed to restore the suit, that was dismissed for default.

3 Aggrieved against the said order, the plaintiff has preferred C.M.A. nil of 2009 before the Principal District Judge, Krishnagiri, however, with a delay of 70 days in filing the Civil Miscellaneous Appeal. The learned Principal District Judge, after going through the eviction filed in support of the petition for condone the delay, has stated that the reason assigned for condoning the delay in filing CMA was not properly explained and not supported by the any document and also taking note of the entirety by the conduct of the party, in not pursuing the suit, which was dismissed for default, subsequent application which was also dismissed for default and thereafter another IA, which has also been dismissed for default, has rejected the reason assigned by the petitioner to condone the

delay. Hence, the Civil Revision Petition.

4 The learned counsel for the petitioner would contend that the petitioner may be given an opportunity to contest the suit on merits, which has filed in the year 2003.

5 On perusal of the various orders passed as referred above and also taking note of the conduct of the party, it appears that he has not interested in conducting the case or prosecuting the suit and he is only interested in dragging on the matter. Inasmuch as the grievance of the petitioner in CRP, has not offered any plausible explanation for condoning the delay.

6 In this View of the matter, the Civil Revision Petition is devoid of merits and the same stands dismissed and the order dated 05.03.2010, made in I.A.No.18 of 2009 in unnumbered CMA.No. of 2009, on the file of the learned Principal District Judge, Krishnagiri is confirmed. No costs. Consecutively, connected Miscellaneous Petition is also closed.

**03.12.2019**

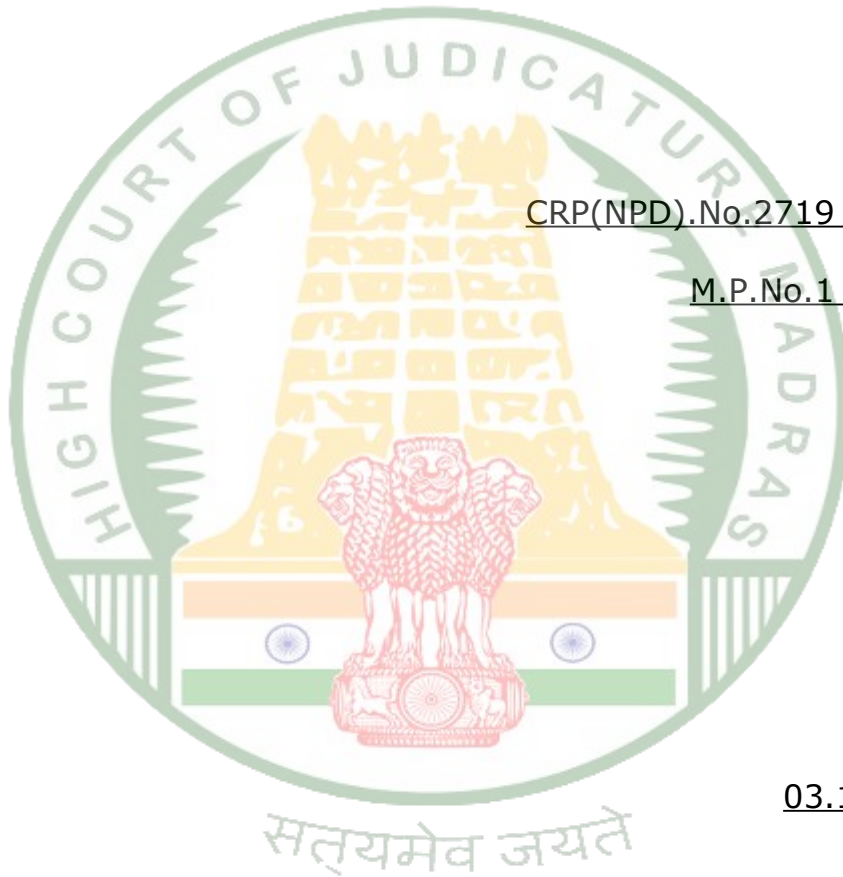
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Speaking Order:Yes/No

**RMT.TEEKAA RAMAN., J.**

dua

To

The Principal District Judge,  
Krishnagiri.



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