

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2019

Coram

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

C.R.P.(NPD)No.3919 of 2011

and

M.P.No.1 2011

Jyothi Laboratories Ltd
Rep. by its Managing Director,
Mr.P.Ramachandran by his Power Agent
M.K.Thomas
Having Office at No.5 & 6, Nackeeran Street,
Vivekananda Nagar,
Chennai-600 118. ... Petitioner

Vs.

1.Bhawarlal Gothi
2.M.Chandran ... Respondents

This Civil Revision Petition has been filed under Article 227 of the Constitution of India to set aside the Order dated 05.07.2011 passed in C.M.P.No.2 of 2011 in A.S.No.37 of 2005 by the learned Additional District Judge/Fast Track Court No.IV, Ponneri.

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For Petitioner : Mr.V.Bheeman
for M/s.Sampathkumar and
Associates

For Respondents : No appearance

ORDER

The present civil revision petition has been filed against the orders dated 05.07.2011 passed in C.M.P.No.2 of 2011 in A.S.No.37 of 2005 by the learned Additional District Judge/Fast Track Court No.IV, Ponneri.

2. The civil revision petitioner is the first respondent in A.S.No.37 of 2005 on the file of the Additional District Judge/Fast Track Court No.IV, Ponneri. The appeal in A.S.No.37 of 2005 was decreed exparte on 27.07.2009. Subsequently, the first respondent herein filed a petition to set aside the exparte order passed against him in A.S.No.37 of 2005 along with a petition in C.M.P.No.2 of 2011 under Section 5 of the Limitation Act praying to condone the delay of 435 days in filing the petition to set aside the exparte decree. After analysing the records, the learned Additional District Judge/Fast Track Court No.IV, Ponneri, allowed the petition on payment of costs of Rs.2,000/- to the present civil revision petitioner on or before 11.07.2011. Aggrieved over the said orders dated 05.07.2011 passed by the learned Additional District Judge/Fast Track Court No.IV, Ponneri, the present civil revision petition is filed.

3.No appearance on behalf of the respondents. In fact they were not served with notice.

4.Heard Mr.V.Bheeman, the learned counsel appearing for the civil revision petitioner.

5.It is seen from the records that the notice issued in the appeal was not served on the first respondent and therefore the learned Additional District Judge/Fast Track Court No.IV, Ponneri allowed the petition on payment of costs of Rs.2000/- to the civil revision petitioner on or before 11.07.2011. In such circumstances, the orders passed by the learned Additional District Judge/Fast Track Court No.IV, Ponneri cannot be found fault with. Moreover, any litigation should end on merits and when sufficient reason is shown in the affidavit to condone the delay, the Courts should normally allow the application and hear the case on merits.

6.In the result, the civil revision petition is dismissed. No costs. Consequently, connected M.P. is closed. The learned Additional District Judge/Fast Track Court No.IV, Ponneri is directed to restore the appeal in A.S. No. 37 of 2005 after recording payment of costs of Rs.2,000/- as per the orders passed in

C.M.P.No.2 of 2011 in A.S.No.37 of 2005. The learned Additional District Judge/Fast Track Court No.IV, Ponneri is further directed to dispose of the appeal in A.S.No.37 of 2005 within a period of three months from the date of receipt of a copy of this order.

03.07.2019

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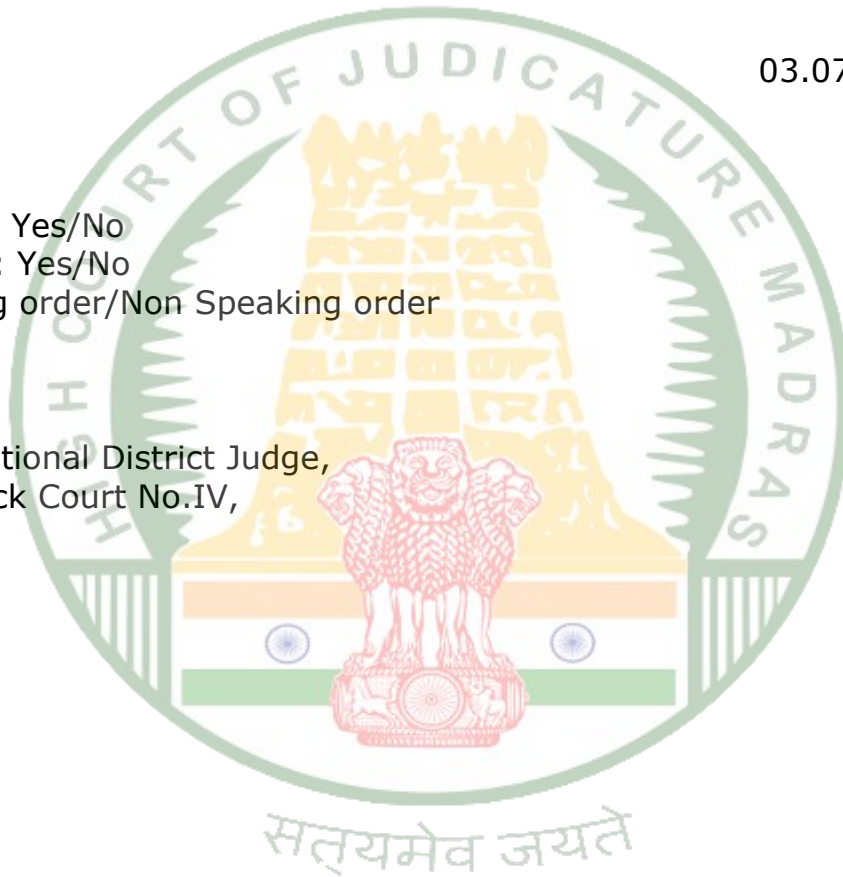
Index : Yes/No

Internet: Yes/No

Speaking order/Non Speaking order

To

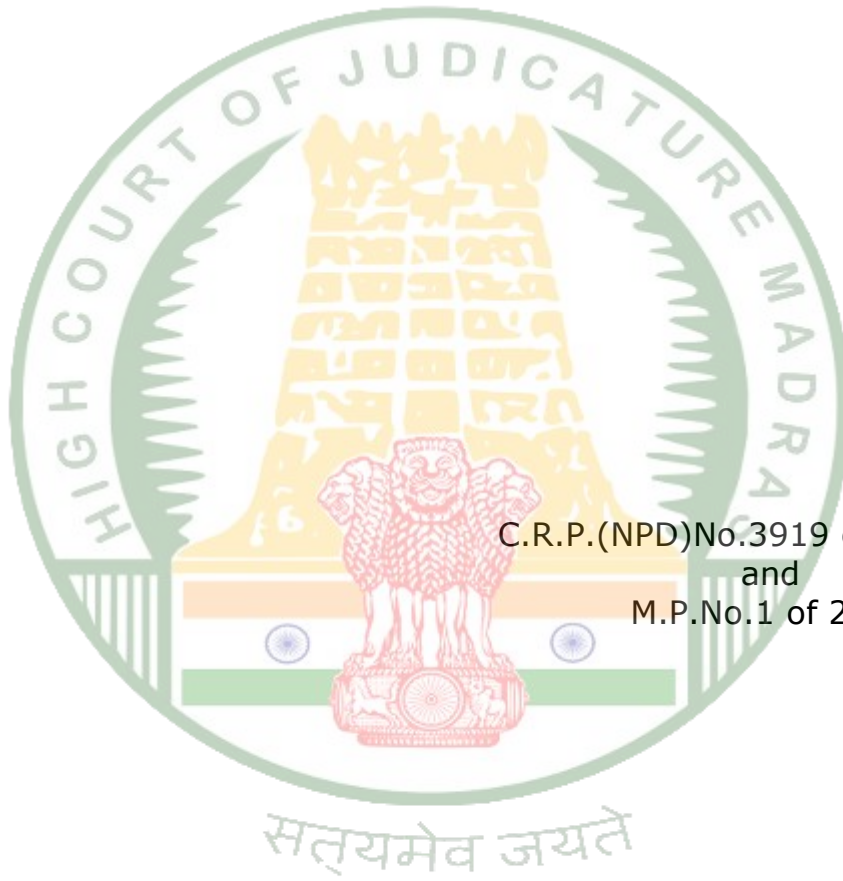
The Additional District Judge,
Fast Track Court No.IV,
Ponneri



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R.HEMALATHA.J.,

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