

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 02.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

C.R.P. (NPD) No. 357 of 2015
and
M.P. No. 1 of 2015

1. Pappammal

2. Gopi

...Petitioners

Vs

1. P.Subramani

2. Ramamurthy

3. Jegadeesan

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code to set aside the fair and decretal order dated 10.09.2014 passed in I.A.No.566 of 2012 in O.S.No.247 of 2006 on the file of the learned District Musnif, Sholinghar, Vellore District.

For Petitioners : Mr.P.Mani

For Respondents : Mr.N.Damodaran
for R1

No Appearance
for R2 & R3

ORDER

The present revision is against the rejection of the petitioners application seeking to condone the delay of 929 days for filing an application to set aside the ex-parte decree.

2. The reason assigned by the petitioners herein in their application filed under Section 5 of the Limitation Act is that, though they engaged counsels before the trial Court, the hearing dates were not informed to them by the counsels. Further, the petitioner have stated that the parties have entered into a compromise and therefore, they have not filed the application in time.

3. The respondents herein have filed a counter in this application denying the compromise alleged by the petitioners herein and even in the evidences, such a compromise has been denied. As such, it cannot be held that the parties have arrived at a compromise.

4. In this background, the only reason assigned for the delay is that, the counsel had not informed about the hearing dates, which resulted in the petitioners herein being set ex-parte. Such a reason cannot be termed as a sufficient cause for the delay. When the petitioners herein have chosen to engage a counsel and incase the counsel had not appeared before the Court

below, the subsequent delay of 929 days after the ex-parte decree came to be passed has not been explained. As a matter of fact, there is absolutely no explanation as to why the petitioners herein have not chosen to file an application after the ex-parte decree was passed.

5. Since the compromise alleged by the petitioners herein has been denied by the respondents, I am of the view that the reasons assigned in their application seeking for condoning the delay of 929 days, cannot be termed as a sufficient cause. As such, I do not find any infirmity in the order of the trial Court in rejecting the petitioners application filed under Section 5 of the Limitation Act.

6. Accordingly, the Civil Revision Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

सत्यमेव जयते

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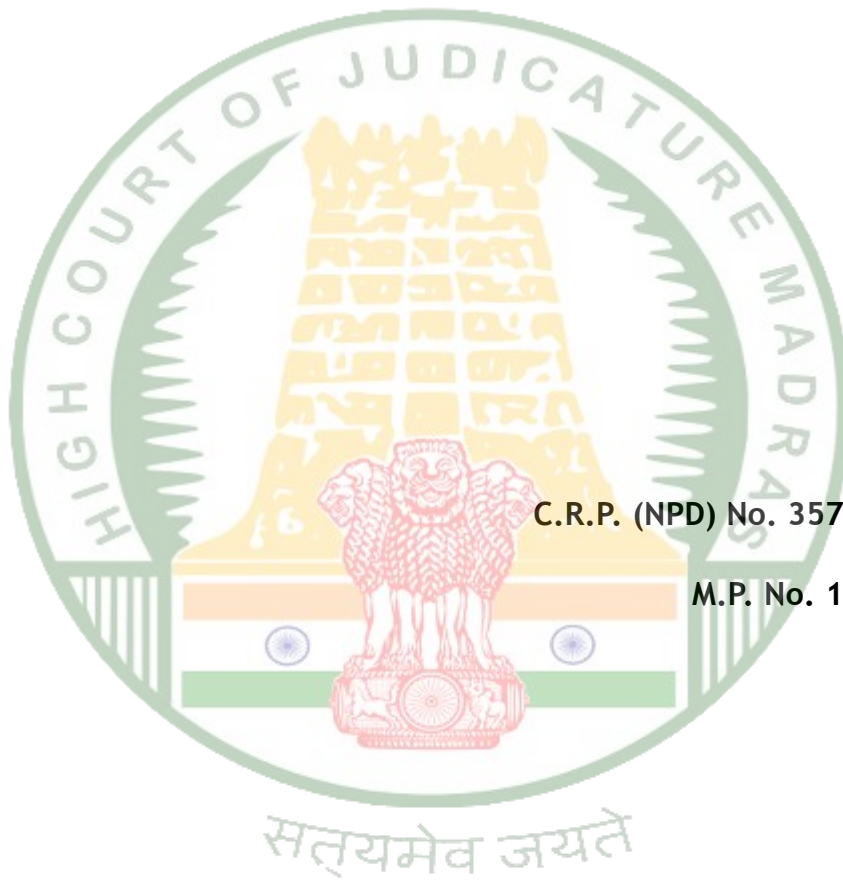
Index:Yes/No

Speaking order: Yes/No

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M.S.RAMESH.,J

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