

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.3936 of 2013 and
M.P.No.1 of 2013

1. R. Santha
2. N. Prabavathy
3. N. Kumutha
4. N. Pangajam
5. N. Subashini
6. N. Lakshmi ... Petitioners

1. V. Subramanian
2. V. Murugesan
3. V. Parvathi
4. V. Padmavathi
5. V.Pushapalatha
6. V.Lakshmi

v.

... Respondents

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Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the fair and final order dated 11.07.2013 passed in I.A.No.392 of 2013 in O.S.No.1422 of 2008 on the file of the III Additional District Munsif Court, Coimbatore District.

For Petitioner : Mr. P. Navaneetha Krishnan

For Respondents : Mr. N. Ponraj

ORDER

Challenging the fair and final order passed in I.A.No.392 of 2013 in O.S.No.1422 of 2008 on the file of the III Additional District Munsif Court, Coimbatore District, the plaintiffs have filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in O.S.No.1422 of 2008 for declaration and permanent injunction. Subsequently, when the suit was posted for trial on 19.09.2011, the plaintiffs failed to appear before the Trial Court and hence, the suit was dismissed for non prosecution on 19.09.2011.

3. Thereafter, the plaintiffs filed an application in I.A.No.392 of 2013 to condone the delay of 425 days in filing the application to restore

the suit, which was dismissed for non prosecution on 19.09.2011. In the affidavit filed in support of the application, the 1st plaintiff has stated that she was suffering from diabetic and hypertension and was taking continuous treatment at Vallalar Hospital, Coimbatore and therefore, the application to restore the suit was not filed in time. The defendants filed their written statement and contested the application.

4. The Trial court, taking into consideration the case of both the parties, dismissed the application finding that the plaintiffs have not given sufficient cause for condoning the delay. Further, the Trial court observed that in the medical certificate produced by the 1st plaintiff, the date of admission and the date of discharge were not mentioned. Challenging the order passed by the Trial Court, the plaintiffs have filed the above Civil Revision Petition.

5. When the Civil Revision Petition is taken up for hearing Mr. Navaneetha Krishnan, learned counsel appearing for the petitioners submitted that the delay may be condoned on payment of costs.

6. Mr.N.Ponraj, learned counsel appearing for the respondents, on instructions, submitted that the delay can be condoned on payment of cost of Rs.30,000/-.

7. The learned counsel appearing for the petitioners also, on instructions, submitted that the petitioners are willing to pay the cost of Rs.30,000/- for condoning the delay.

8. In view of the submissions made by the learned counsel on either side, the fair and decreetal order passed in I.A.No.392 of 2013 in O.S.No.1422 of 2008 on the file of the III Additional District Munsif Court, Coimbatore District, are set aside on condition that the petitioners paying a sum of Rs.30,000/- [Rupees thirty thousand only] as costs to the respondents 1 to 6, within a period of three weeks from the date of receipt of a copy of this order, failing which, the order in I.A.No.392 of 2013 shall be confirmed. Since the suit is of the year 2008, I direct the III Additional District Munsif Court, Coimbatore District, to dispose of the suit in O.S.No.1422 of 2008, on merits and in accordance with law,

within a period of six months from the date of receipt of a copy of this order.

With these observations, the Civil Revision Petition is allowed.

Consequently, connected Miscellaneous Petition is closed.

24.09.2019

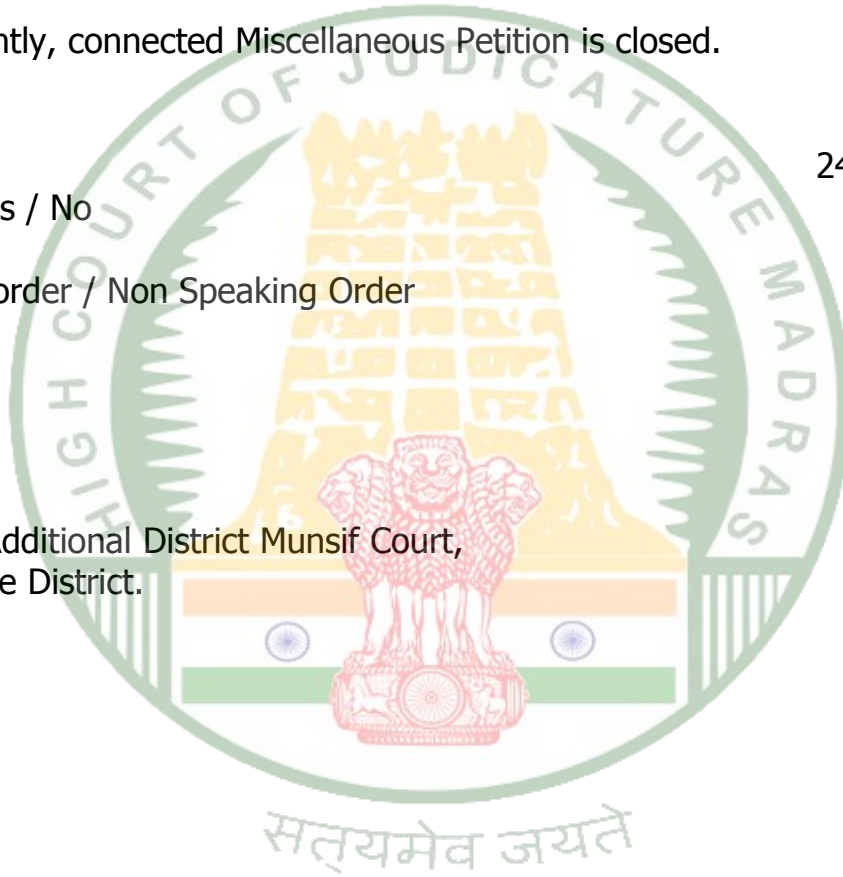
Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The III Additional District Munsif Court,
Coimbatore District.

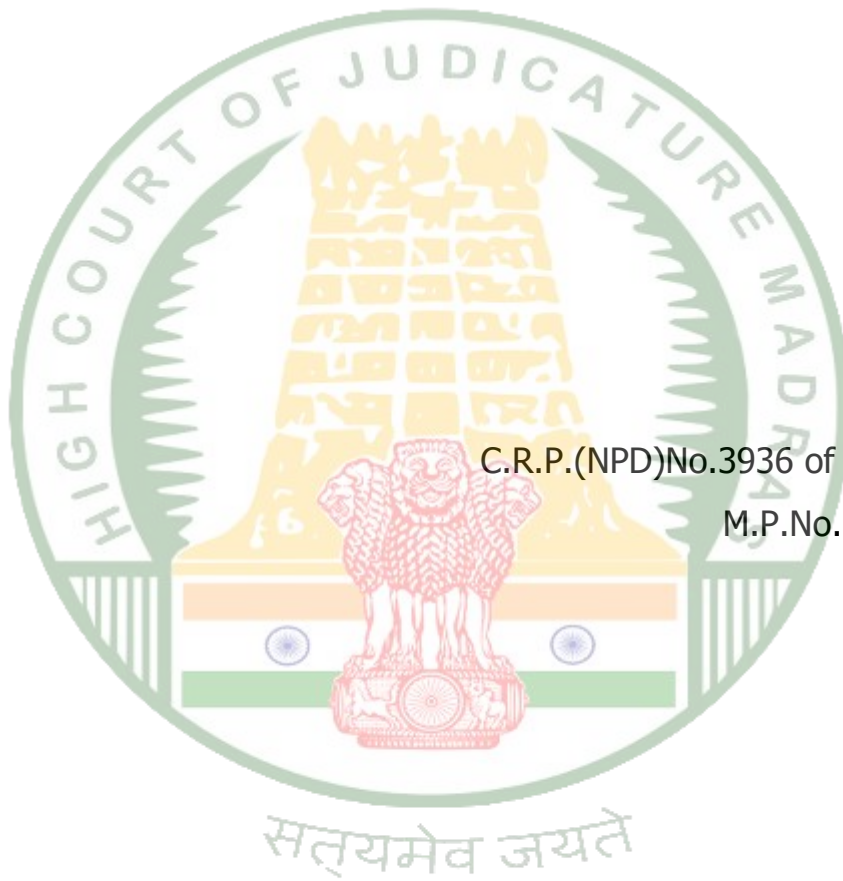


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M.DURAIWAMY, J.

Rj



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