

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.02.2019

Coram:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

C.R.P.(NPD)No.462 of 2013 and
M.P.No.1 of 2013

Vanniyaraj

..

Petitioner

versus

Devikani

..

Respondent

PRAYER: Civil Revision Petition has been filed under Section 115 of the Constitution of India, against the fair and decreetal order dated 24.02.2012 made in I.A.No.860 of 2011 in O.S.No.197 of 2008 on the file of the learned District Munsif, Ponneri.

For Petitioner : No Appearance

For Respondent : Mr.R.S.Anandan

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ORDER

This Civil Revision Petition has been preferred against the order dated 24.02.2012 made in I.A.No.860 of 2011 in O.S.No.197 of 2008 on the file of the learned District Munsif, Ponneri.

2. Though there is no representation on behalf of the revision petitioner, taking into consideration of the facts that the Revision is pending from the year 2013, this Court is inclined to dispose of the same on merits.

3. The brief facts leading to the present Revision are as follows:

3.1. The respondent is the wife of the revision petitioner has filed the suit for permanent injunction, as the revision petitioner did not appear before the trial Court, the *exparte* decree was passed on 18.09.2008. Therefore, to set aside the above decree, the revision petitioner has filed an Interlocutory Application in I.A.No.860 of 2011 to condone the delay of 764 days. After analysing the documents, the trial Court has dismissed the said application.

4. Aggrieved over the above said order dated 24.02.2012, the revision petitioner is before this Court with the present Civil Revision Petition.

5. Heard the learned counsel appearing for the respondent and perused the materials available on record.

6. It is the contention of the revision petitioner that, after he came to know about the decree, he has filed an application to set aside the decree with a delay of 764 days. However, the trial Court found that the allegations contained in the application is not based on factual aspects. Further noted that the summons were served on the revision petitioner on 01.07.2008, he has deliberately refused to receive the summons and thereafter, the *exparte* decree was passed and thereby, dismissed the application.

7. It is to be noted that the decree holder is none other than his own wife. Therefore, the contention of the revision petitioner that he has no knowledge of the suit filed by his wife cannot be countenanced. Admittedly, the property is in the name of his wife, she has filed the suit and obtained an order of decree. It is also stated by the learned counsel appearing for the respondent that there were proceedings pending between the husband and wife for divorce. Therefore, the contention of the revision petitioner that he did not know about the *exparte* decree is highly improbable and it cannot be believable. Hence, the dismissal of the application by the trial Court does not require any interference.

8. In the result, the Civil Revision Petition is dismissed.

Consequently, connected Miscellaneous Petition is closed. No costs.

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Speaking Order/Non Speaking Order

Index : Yes / No

Internet : Yes

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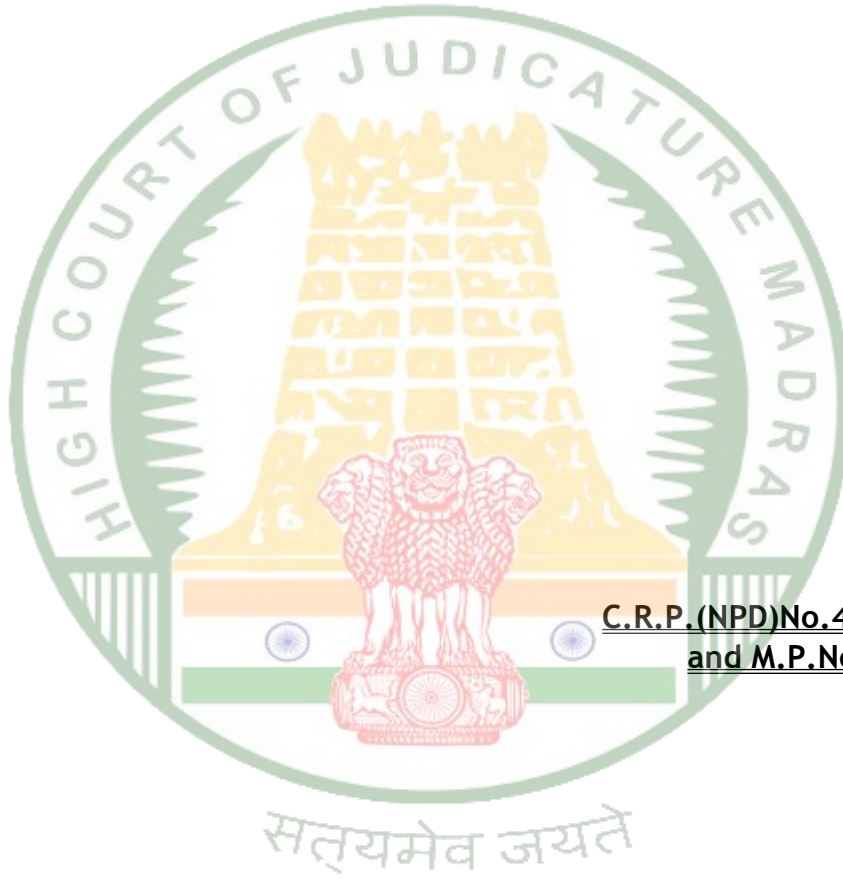
The District Munsif,
Ponneri.



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N.SATHISH KUMAR, J.,

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