

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(NPD)No.1337 of 2019

A.V.R.Kuppusamy

... Petitioner

Vs.

The Deputy Registrar of Co-operative Societies (Housing),
18, Varadanar Street,
Vedachalam Nagar,
Chengalpet – 603001.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order passed by the Principal and District Judge of Kancheepuram, Chengalpet dated 22.06.2018 in I.A.No.1025 of 2016 in Co-operative C.M.A.No.15 of 2010.

For Petitioner

: Mr.K.V.Babu

For Respondent

: Mr.L.P.Shanmugasundaram

Special Government Pleader

ORDER

The present Civil Revision Petition is filed by the petitioner seeking to set aside the fair and decreetal order passed by the Principal and District Judge of Kancheepuram, Chengalpet, dated 22.06.2018 in I.A.No.1025 of 2016 in Co-operative C.M.A.No.15 of 2010.

2. From the order passed by the Court below, it could be seen that the petitioner / appellant filed written arguments on 05.11.2013 and the matter was posted for respondent side arguments from 03.12.2013. It is not clear from the order as to whether the respondent made his submissions or filed written arguments in the above matter. However, the learned Judge dismissed the appeal for default as the appellant has not submitted his oral arguments.

3. When an application was filed for restoration of appeal, it was dismissed on the ground that there is no explanation for the long delay. Any appeal against the order passed by the Deputy Registrar of Co-operative societies (Housing) has to be decided on the basis of records and arguments. When the appellant has submitted written arguments, the learned Judge ought to have decided the matter on the basis of materials available before him. Only because of the oral submissions were not made on the appellant side, the appeal cannot be dismissed for default, but should

have been decided on merits. Hence, this Court finds that the order passed by the learned Judge is not in accordance with law and accordingly, set aside. The appeal in C.M.A.No.15 of 2010 is restored on file and a direction is issued to the learned Judge to dispose it on merits within a period of two months from the date of receipt of a copy of this order.

4. The Civil Revision Petition is ordered accordingly. No costs.

20.06.2019

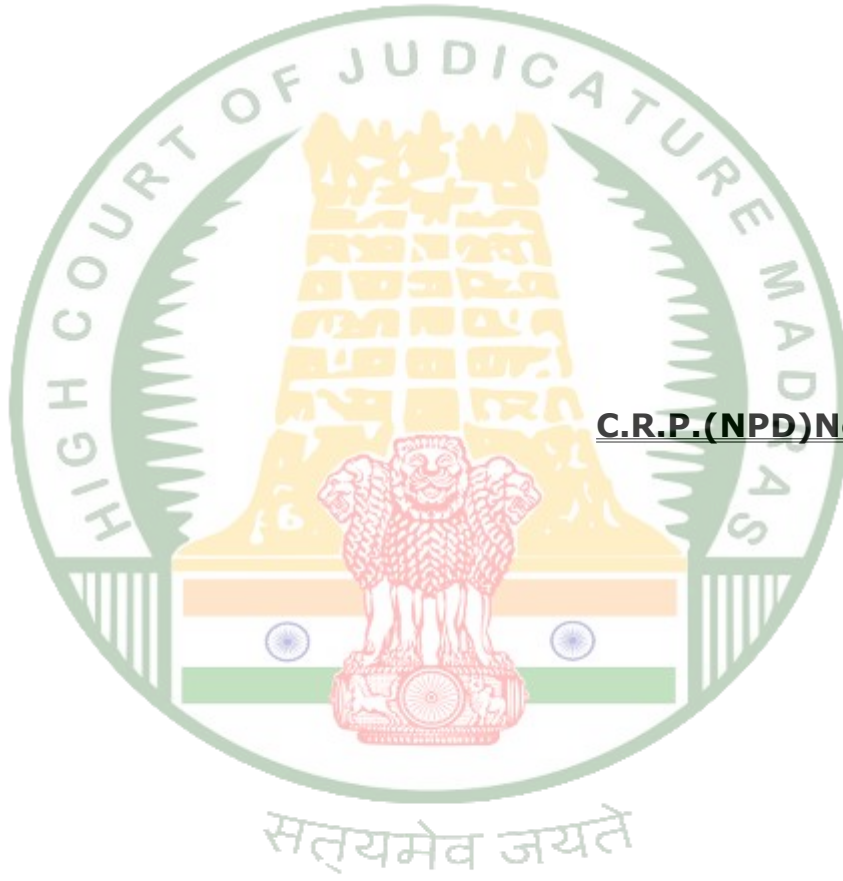
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M.GOVINDARAJ, J.

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