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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.03.2019

CORAM :

THE HON'BLE Ms. JUSTICE P.T.ASHA

C.R.P. (NPD) No.275 of 2016

and

C.M.P. No.1283 of 2016

1.Jothi

2.Manju

... Revision Petitioners

Vs.

1.Sundarammal

2.Danalakshmi

3.Parvathi ... Respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the order and decretal order dated 08.06.2013 made in I.A.No.591 of 2012 in O.S.No.29 of 2005 on the file of the District Munsif Court, Gudiyattam, Vellore District.

For Petitioners : Mr.T.Dhanyakumar

For Respondents : Mr.D.Shivakumaran
for R1 and R2

ORDER

The above Civil Revision Petition has been filed, challenging the order, passed by the learned District Munsif, Gudiyattam in I.A.No.591 of 2012 in O.S.No.29 of 2005, dismissing the application filed by the revision petitioners for condoning the delay of 1664 days in filing the application to set aside the

exparte decree passed against them.

2.The reason that has been given for the delay is that, the 1st petitioner's husband and her daughter were bed-ridden and therefore, she was unable to participate in the proceedings and Ex.P1 has been marked on her side in support of the said statement. But, the respondents have objected to the said submission by stating that, the petitioners have deliberately kept away from the proceedings and that they are very much aware of the stage of the suit. The learned counsel for the respondents would also state that the 2nd petitioner is not the natural daughter of the 1st petitioner and that sufficient cause has not been shown.

3.The learned District Munsif, by his order dated 08.06.2013, dismissed the said application by observing that, no reliable evidence has been produced by the revision petitioners to show that the 1st petitioner's husband was indisposed by Tuberculosis and that the 2nd petitioner has also suffered from Jaundice from the year 2008 to 2013. The learned Judge has also taken exception to the fact that the petitioners had not entered into the witness box to prove their case. In the light of the above reasons, the learned Judge concluded that the petitioners have not provided sufficient cause to condone the delay and it is a deliberate attempt to protract the proceedings.

4.Challenging the said order, the revision petitioners are before this

Court.

5.Heard Mr.T.Dhanyakumar for the revision petitioners and Mr.D.Shivakumaran for the respondents 1 and 2.

6.From the records, it is evident that, neither the revision petitioners have proved the contentions raised by them in the affidavit by cogent evidence, nor it is believable that, one of the petitioners had suffered Jaundice for over five years, which clearly shows that the statement is made only for the purpose of creating the cause to condone the delay. That apart, the Court below has held that the petitioners have not provided any proof to show that the 1st petitioner's husband has suffered from Tuberculosis for all these years.

7.In the light of the above, I find no infirmity in the order passed by the learned District Munsif, Gudiyattam, in I.A.No.591 of 2012 in O.S.No.29 of 2005 and the same stands confirmed.

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P.T.ASHA, J.

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8.In the result, this Civil Revision Petition is dismissed. No costs.

Consequently, connected Miscellaneous Petition is closed.

01.03.2019

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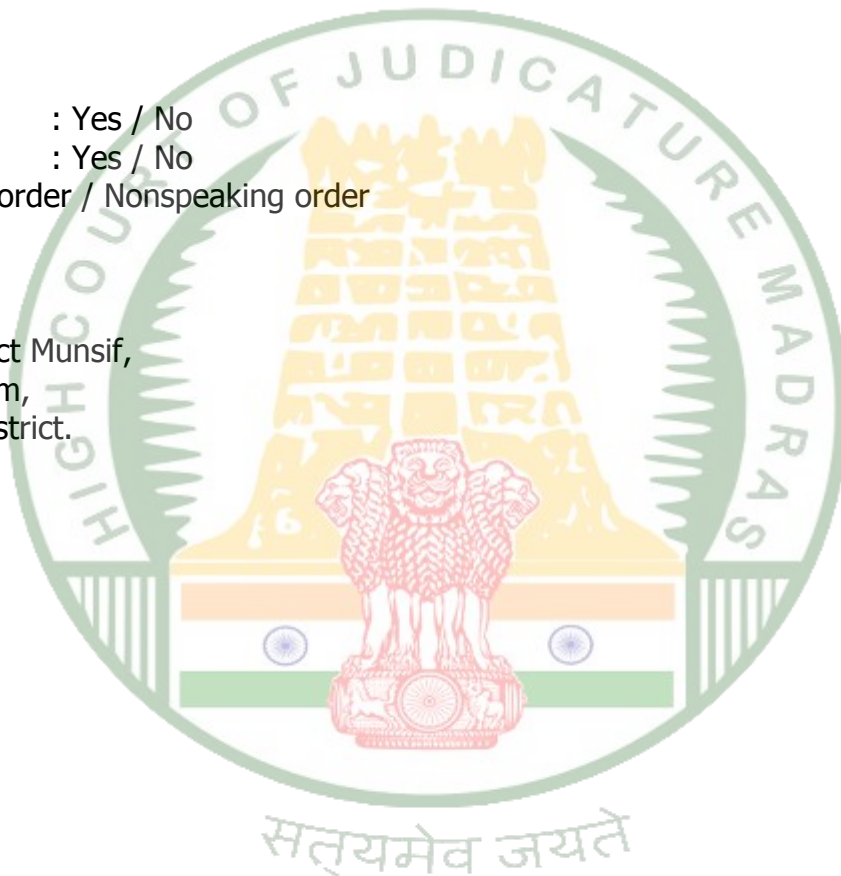
Index : Yes / No

Internet : Yes / No

Speaking order / Nonspeaking order

To

The District Munsif,
Gudiyattam,
Vellore District.



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