

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) Nos.299 and 300 of 2016

K.Jagadeesh Kumar

... Revision Petitioner
in both petitions

Vs.

1.Samiappan

2.Valliathal

3.Valliathal

... Respondents
in C.R.P. No.299 of 2016

1.Samiappan

2.Valliathal

3.Valliathal

4.Kuppusamy Gounder

5.Saraswathi

... Respondents
in C.R.P.No.300 of 2016

PRAYER: Civil Revision Petitions filed under Section 115 of the Code of Civil Procedure against the fair and final order passed in I.A.Nos.1384 and 1385 of 2012 in A.S.Nos.44 and 45 of 2007, respectively, dated 03.12.2015, on the file of the Additional District Court No.3, Dharapuram, Tiruppur District.

For Petitioner : Mr.S.Saravanan
in both petitions

For Respondents

R1 : Mr.R.Vinoth Raja
for Mr.N.Manokaran
in both petitions

R2 & R3 : Not ready in notice
in both petitions

R4 : Not ready in notice
in C.R.P.No.300 of 2016

R5 : No appearance
in C.R.P.No.300 of 2016

COMMON ORDER

The above Civil Revision Petitions have been filed, challenging the orders in I.A.No.1384 of 2012 in A.S.No.44 of 2007 and I.A.No.1385 of 2012 in A.S.No. 45 of 2007 on the file of the Additional District Court No.3, Dharapuram, which are the applications to condone the delay of 1137 days in filing the applications to restore the appeals, which were dismissed for default.

2.The facts in brief which are necessary to dispose of these Civil Revision Petitions are as follows :

3.The respondents herein had filed a suit in O.S.No.372 of 2004 against the revision petitioner and two others for declaration that the suit schedule property belongs to them and for a partition with reference to the 'B' schedule property. The suit was decreed by a judgment and decree dated 23.07.2007. Similarly, the revision petitioner had filed the suit in O.S.No.353 of 2004 for partition of the suit schedule property against the respondents herein. This suit was also decreed on 23.07.2007.

4. These are the two decrees, that have been taken up for challenge in A.S.No.45 of 2007 and A.S.No.44 of 2007, respectively. From the records, it is seen that the appeals were dismissed for default on 23.07.2009 and these appeals were sought to be restored, after a delay of 1137 days.

5. From the narration, it is seen that, earlier, the appeals had been dismissed on 10.12.2005 and were thereafter restored to file by an order in I.A.No.11 of 2009 and once again, on 23.07.2009, the revision petitioner/appellant has allowed the appeals to be dismissed for default. Thereafter, after a delay of 1137 days, the present applications, which are impugned in these revision petitions, have been filed.

6. The revision petitioner has not given any reasons, whatsoever, for condoning the delay of 1137 days, as is evident from the reading of the affidavit filed in support of the impugned petitions. The learned Additional District Judge, by a common order dated 03.12.2015 had dismissed these applications on the ground that sufficient cause has not been shown.

7. Challenging the same, the revision petitioner is before this Court.

8. Heard Mr.S.Saravanan, learned counsel appearing for the revision petitioner and Mr.R.Vinoth Raja, learned counsel appearing for the 1st

respondent.

9.A perusal of the affidavit filed in support of the impugned petitions clearly shows that, the petitioner has not shown sufficient cause for condoning the delay of 1137 days in filing the applications to restore the appeals. That apart, it is seen that, on an earlier occasion also, the revision petitioner has allowed the appeals to be dismissed for default. The conduct of the revision petitioner clearly demonstrates that the entire ploy is to protract the proceedings and there is no intention on the part of the appellant to pursue these appeals. Hence, I find no infirmity in the common order passed by the learned Additional District Judge in I.A.Nos.1384 and 1385 of 2012 in A.S.Nos.44 and 45 of 2007.

10.In the result, these Civil Revision Petitions stand dismissed. No costs.

सत्यमेव जयते

01.03.2019

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Index : Yes / No

Internet : Yes / No

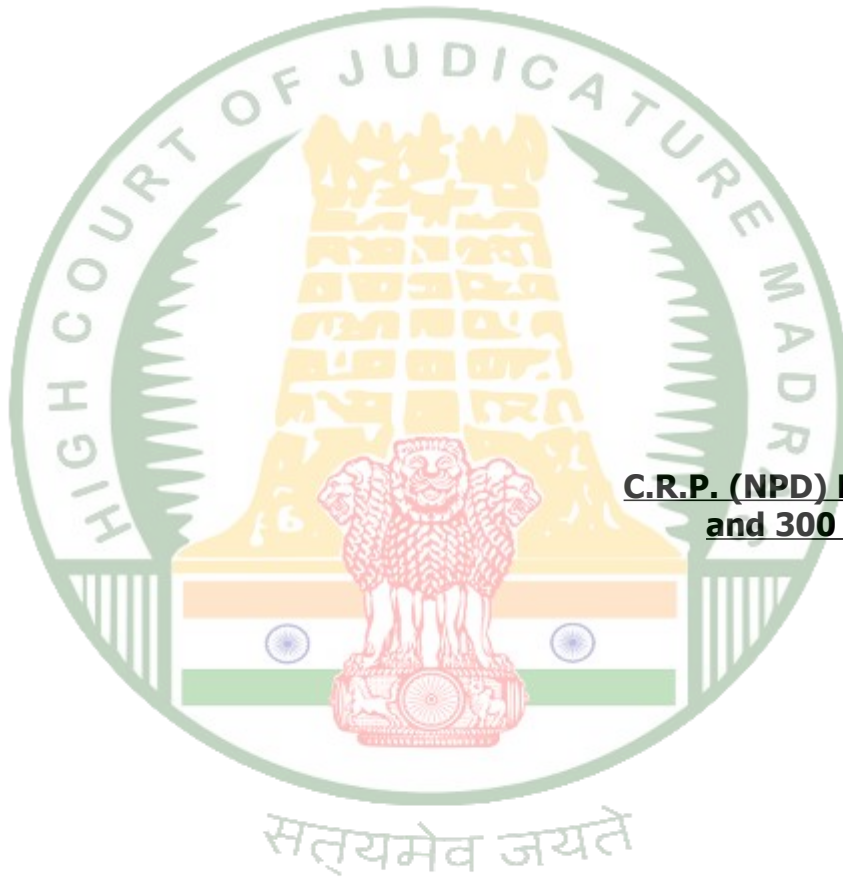
Speaking order / Nonspeaking order

To

The Additional District Judge,
Additional District Court No.3,
Dharapuram, Tiruppur District.

P.T.ASHA, J.

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and 300 of 2016**

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