

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.1361 OF 2019

1.R.Chinnasamy

2.C.Thilagavathy

... Petitioners

Vs.

K.Rajendran

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India praying to set aside the fair and decreetal order dated 02.11.2018 made in I.A.No.122 of 2018 in I.A.No.4 of 2018 in O.S.No.28 of 2017 on the file of the Additional District Judge, Magalir Neethi Mandram, (Fast Track Mahila Court), Erode.

For Petitioners

: M/s.M.Guruprasad

For Respondent

: M/s.A.Sundaravadhanan

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ORDER

This Civil Revision Petition is filed to set aside the order dated 02.11.2018 dismissing the petition to extend the time for payment of costs.

2. The revision petitioners are the defendants in O.S.No.28 of 2017. They filed a petition under Order 8 Rule 9 and Section 151 C.P.C. in I.A.No.41 of 2017 seeking leave to file additional written statement. The same was allowed subject to condition that the petitioners shall pay a sum of Rs.1,000/- to the respondent / plaintiff as costs on or before 29.08.2018. However they have failed to make the payment and filed a petition under Section 148 r/w Section 151 C.P.C. seeking extension of time for payment of cost. Considering the lethargy, the Trial Court dismissed the petition.

3. Now that the learned counsel for the petitioner would contend that the Trial Court has ample power to extend the time under Section 148 for at least 30 days but refused the exercise of powers and hence the order passed by the Court below is erroneous and prayed for allowing of the Civil Revision Petition.

4. The learned counsel for the respondent would vehemently oppose the petition on the ground that the conduct of the petitioner will clearly show that only with an ulterior motive to protract the proceedings. The reasons

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adduced for non payment of money is not believable and therefore the Trial Court has rightly dismissed the petition and the same does not require any interference.

5. I have considered the rival submissions made on either side. The suit is of the year 2017 and the petitioners / defendants have filed additional written statement after four months from filing of written statement. Since the trial court considers that it is a fit case for receiving additional written statement, I am inclined to extend the time of payment of cost. However, considering the hardship caused to the respondent, the petitioner is directed to make a payment of Rs.4,000/-(Rupees Fourth Thousand Only) within a period of two weeks from the date of receipt of a copy of this order.

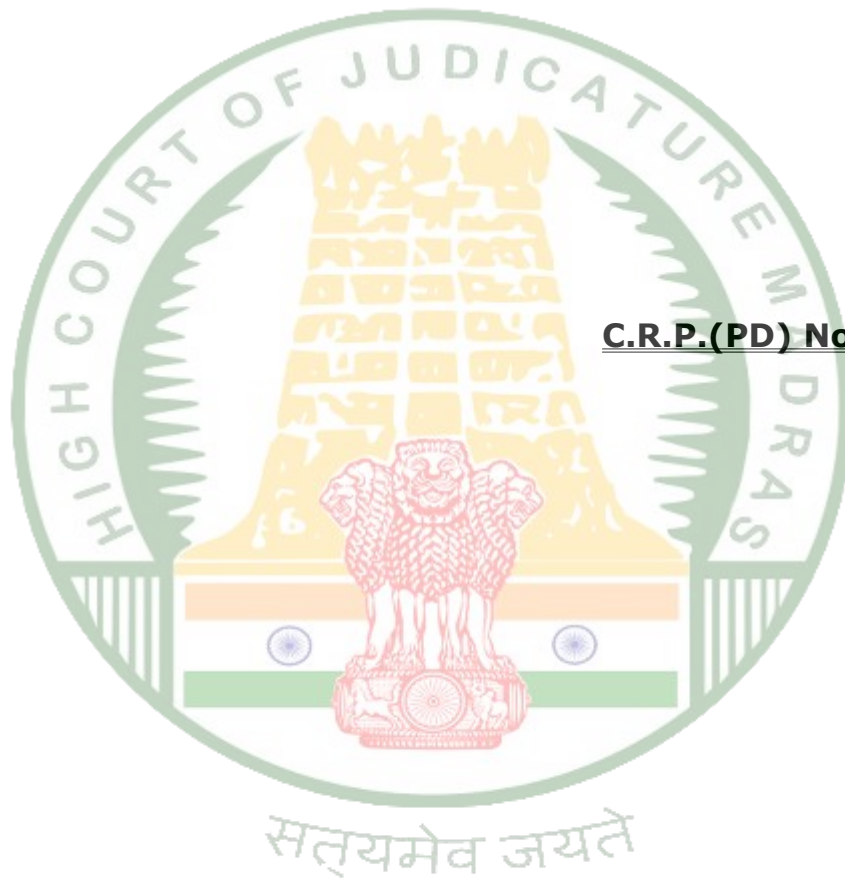
6. In fine, this Civil Revision Petition is disposed of with the above direction. No costs.

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