

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2019

CORAM

THE HONOURABLE **Ms.JUSTICE P.T.ASHA**

CRP(NPD).No.536 of 2016

J.Vinayagamurthy

.. Petitioner/Appellant/Petitioner

Vs

V.Dhamayanthi

.. Respondent/Respondent/Respondent

Civil Revision Petition filed under Article 227 of the Indian Constitution to set aside the order and decreetal dated 10.12.2015 made in I.A.No.23 of 2014 in A.S.No.Nil of 2014 on the file of the Court of the District Judge, Tiruvannamalai, Tiruvannamalai District, by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Agilesh

For Respondent : Mr.K.Govi Ganesan

सत्यमेव जयते

ORDER

The above Civil Revision Petition is filed challenging the order passed in I.A.No.23 of 2014 in unnumbered Appeal Suit, challenging the decree passed in the suit for specific performance granted in O.S.No.42 of 2010, on the file of the learned Subordinate Judge, Arni, Tiruvannamalai District.

2 The learned counsel for the respondent would submit that sale deed has been executed in favour of the respondent and delivery has also been taken and the same has also been recorded by the Executing Court in E.P.No.163 of 2013, on 23.04.2015, and E.P, was also closed. He would fairly concede that, he has no objection in the delay being condoned.

3 The reasons that have been stated in the affidavit filed in support of I.A.No. 23 of 2014, is that the certified copies of the order had been misplaced by the petitioner and thereafter, he has suffered severe Jaundice and therefore, unable to meet his learned counsel and hence the delay of 247 days had occurred. It has been time and again stated by the Honourable Supreme Court, that a liberal approach should be taken while condoning the delay, particularly, when the delay is not a ruse to protract the proceedings. It is also seen from the affidavit that during the relevant period, the petitioner had also lost his own son and all these have added to the delay.

4 Considering above facts, I am of the opinion that the learned Judge ought to have taken a lenient view in stead of dismissing the application for condonation of delay.

5 In the result, the Civil Revision Petition allowed, the order passed in I.A.No.23 of 2014 is set aside. It is once again made clear that the possession has been taken by the respondent/plaintiff in execution proceedings in E.P.No.163 of 2013.

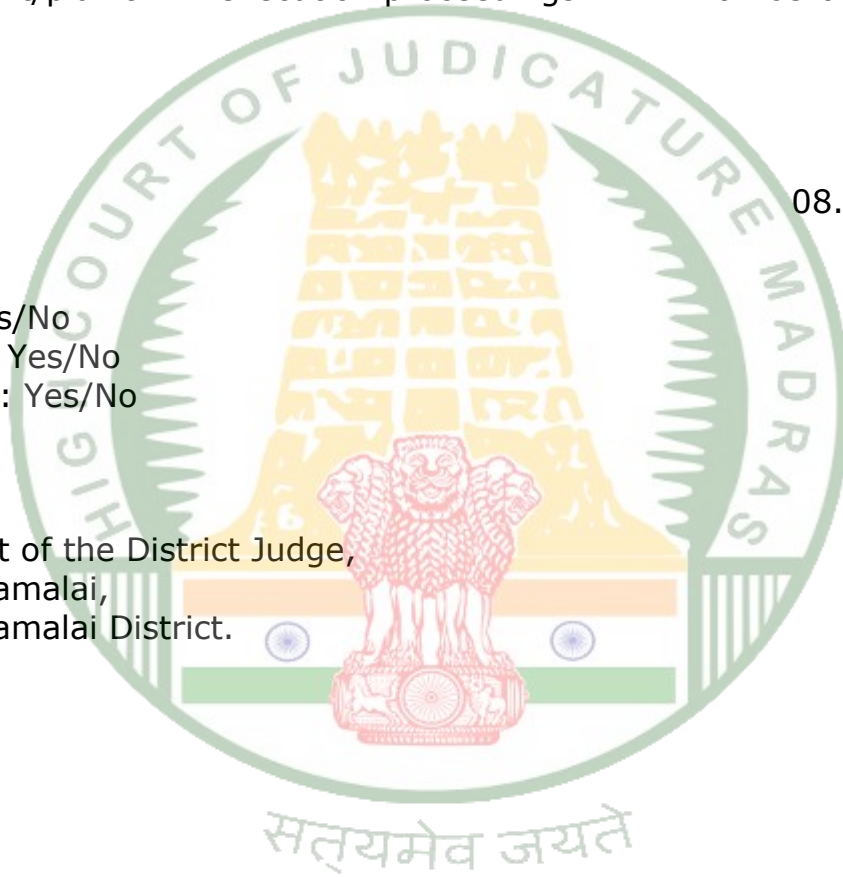
08.02.2019

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Index: Yes/No
Internet: Yes/No
Speaking: Yes/No

To

The Court of the District Judge,
Tiruvannamalai,
Tiruvannamalai District.



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P.T.ASHA. J,
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