

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.03.2019

CORAM:

THE HONOURABLE **MR. JUSTICE C.SARAVANAN**C.R.P(NPD).No.1567 of 2014

Kuppusamy

... Petitioner

Vs.

1.Santhu Bibi

2.Memmoon Bibi

... Respondents

Prayer: Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the impugned passed in I.A.No.16 of 2012 in A.S.No.8 of 2006 on the file of Sub-Court, Udumalpet, dated 04.10.2012 and to set aside the same.

For Petitioner : Ms.K.Gomathy for Mr.S.Gunalan

For Respondents : Mr.K.Goviganesan

ORDER

The present civil revision petition is directed against the fair and decreetal order dated 04.10.2012 passed in I.A.No.16 of 2012 in A.S.No.8 of 2006 on the file of Sub-court, Udumalpet.

2. The petitioner was the plaintiff in O.S.No.296 of 2002. The said suit was dismissed on 16.12.2005. Thereafter, the petitioner preferred an appeal before the Sub-Court, Udumalpet on 24.10.2007. The appeal was also dismissed for default and thereafter, an interlocutory application was

filed on 21.11.2007 for restoring the same to the file. On 22.11.2007, the petition was returned with certain defects.

3. The petitioner had made an attempt to represent the same with a delay of 34 days which was again returned for further compliance. The petitioner thereafter filed an interlocutory application in I.A.No.16 of 2012 with the delay of 1270 days. According to the petitioner, the delay was due to ill-health. On 04.10.2012 the impugned order came to be passed dismissing the application, against which the present civil revision petition has been filed.

4. During the pendency of the present civil revision petition, it appears the first respondent Santhu Bibi has also passed away. The steps have been taken. The petitioner's counsel mentions that she has not been able to get the details of the legal heirs of the deceased Santhu Bibi, the first respondent herein. There is no point in keeping the civil revision petition pending. The case has been dismissed only for non-compliance of the defects pointed out by the Registry before the first appellate Court namely the Sub-court, Udumalpet.

5. Consequently, the present civil revision petition is allowed subject to payment of costs and subject to the petitioner taking steps to bring the legal heirs of the deceased Santhu Bibi (R1) within two weeks of receipt of this order before the Sub-court, Udumalpet on record.

6. The petitioner shall pay a sum of Rs.5,000/- (Rupees Five Thousand only) to the legal heirs of the deceased Santhu Bibi and a sum of Rs.5,000/- (Rupees Five Thousand only) to the second respondent Memoon Bibi within a period of four weeks from the date of receipt of a copy of this order. On payment such cost and on production of proof of such payment, and taking steps to implead the legal heirs of the said respondent, the delay shall stand condoned.

7. On such compliance, petitioner shall file a memo before The Sub-court. It shall thereafter list the appeal for hearing and endeavour to dispose the appeal with in a period of six months from the date of receipt of a copy of this order.

C.SARAVANAN, J.

arb

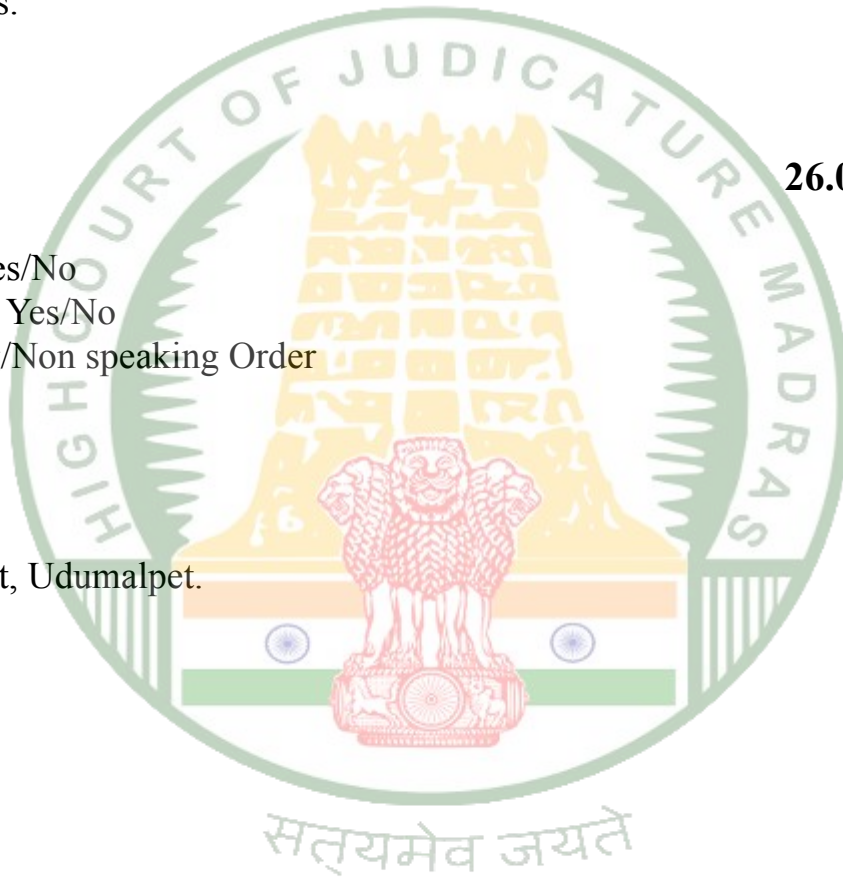
8. The present Civil Revision Petition is disposed with the above directions.

26.03.2019

Index : Yes/No
Internet : Yes/No
Speaking/Non speaking Order
arb

To

Sub-court, Udumalpet.



C.R.P (NPD)No.1567 of 2014

WEB COPY