

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.02.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

**C.R.P(NPD) No.2316 of 2014
and M.P.No.1 of 2014**

P.Sampath

.. Petitioner

VS

V.Ramalingam

.. Respondent

Prayer: Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the impugned order dated 10.04.2014 passed in I.A.No.163 of 2014 in O.S.No.278 of 2010 on the file of the District Munsif Court, Arni, Tiruvannamalai District.

For Petitioner : Mr.S.Vidhya

For Respondent : Mr.P.Satheesh Kumar

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ORDER

This civil revision petition is directed against the impugned fair and decretal order dated 10.04.2014 on the file of the District Munsif Court, Arni, in I.A.No.163 of 2014 in O.S.No.278 of 2010 .

2. The revision petitioner is the defendant. The respondent/plaintiff filed the suit for recovery of money. The suit was decreed exparte on 25.07.2011. Pursuant to which, the respondent has also filed an execution petition in the year 2013. Thereafter, the petitioner had filed I.A.No.163 of 2014 to condone the delay of 931 days in filing the application to set aside the exparte decree and that application was dismissed on the ground that the delay has not been properly explained.

4. The learned counsel for the petitioner submitted that the petitioner was suffering from diabetes and therefore, could not take steps to defend the case therefore prayed for the delay to be condoned. The petitioner has already deposited a sum of Rs.30,000/- and he states that he is also willing to deposit the balance decreed amount.

5. The learned counsel for the respondent submitted that the diabetes is not a disease and therefore there is no necessity to condone the delay. The petitioner filed an execution petition in E.P.No.15 of 2013 to execute the decree amount of Rs.40,473/-. This Court by an order dated 03.07.2014, ordered interim stay on the condition that the petitioner shall deposit a sum of Rs.30,000/- to the credit of E.P.No.15 of 2013 in O.S.No.278 of 2010 on the file of the District Munsif Court, Arni.

5. Considering the submission made by the learned counsel for both sides, this Court directs the petitioner shall pay the balance decreed amount within a period of four weeks from the date of receipt of a copy of this order. On such deposit being made, the learned District Munsif, Arni, Tiruvannamalai District shall take up the case and decide on merits, within a period of three months thereafter.

6. The civil revision petition is allowed with the above observation. No cost. Consequently, connected miscellaneous petition is also closed.

05.02.2019

Speaking : Non-speaking order
Index : Yes/No
Internet : Yes/No
kkd

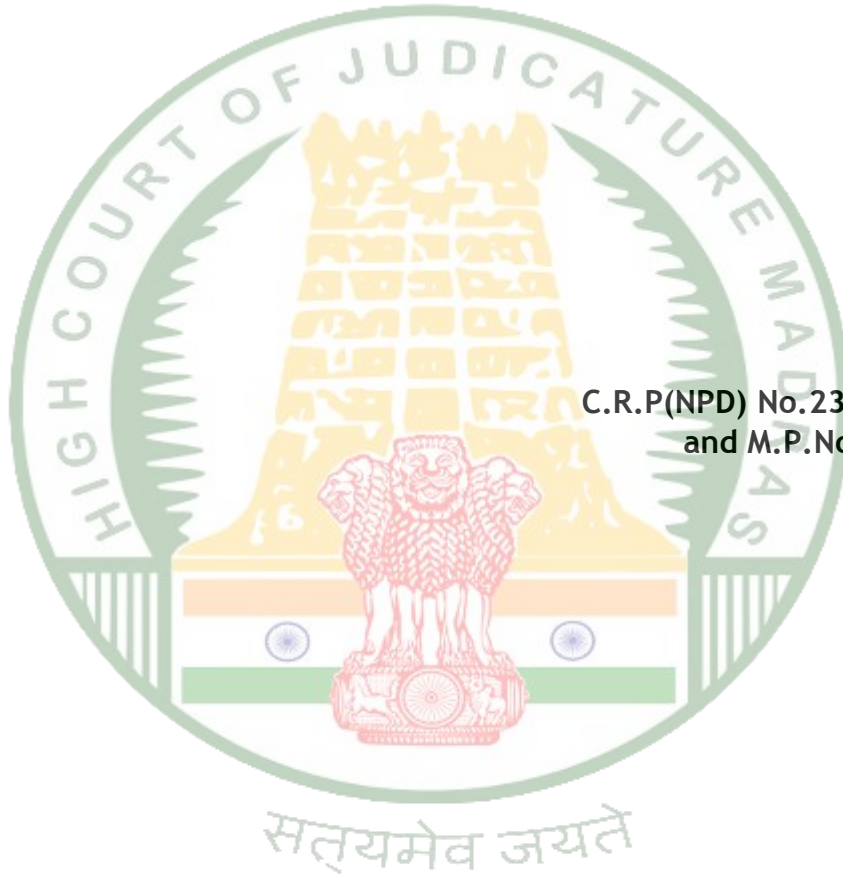
To

The District Munsif Court, सत्यमेव जयते
Arni, Tiruvannamalai District.

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C.SARAVANAN,J.

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23.10.2018