

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2019

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD)No.2905 of 2014

and

MP No.1 of 2014

S. Jayavelu

...

Petitioner

versus

K. Muniyammal

...

Respondent

Civil Revision Petition filed under Section 115 of CPC to set aside the fair and decreetal order dated 06.02.2014 in I.A. No.58 of 2008 in Unnumbered A.S. on the file of the Principal District Judge, Tiruvannamalai.

For Petitioner

:Mr.G. Rajan

For Respondent

:Mr.S. Umapathy

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 06.02.2014 passed by the learned Principal District Judge, Tiruvannamalai in I.A. No.58 of 2008 in unnumbered A.S. of 2008.

Brief facts leading to the filing of the Civil Revision Petition under Section 115 of CPC

2. The petitioner is the defendant in the suit O.S. No.343 of 2000 filed by the respondent seeking for recovery of a sum of Rs.1,42,710/- together with interests and costs based on mortgage deed executed by the petitioner in favour of the respondent. The said suit O.S. No.343 of 2000 WAS decreed in favour of the respondent on 11.10.2006. Aggrieved by the said judgment and decree, the petitioner preferred an appeal. As there was a delay of 648 days in filing an appeal, I.A. No.58 of 2008 was filed by the petitioner in unnumbered A.S. of 2008 seeking to condone the said delay.

3. The reason given in the affidavit filed in support of I.A. No.58 of 2008 is that the petitioner was suffering from Jaundice and was taking country treatment to cure his illness. A counter affidavit was also filed by the respondent in I.A. No.58 of 2008 in unnumbered A.S. of 2008, denying the allegations made by the petitioner in I.A. No.58 of 2008.

4. By order dated 06.02.2014, the learned Principal District Judge, Tiruvannamalai dismissed the said application on the ground that no sufficient reasons have been given by the petitioner for

condonation of the inordinate delay. The Court below has also observed that no evidence has been produced by the petitioner to prove his illness. Aggrieved by the dismissal of I.A. No.58 of 2008 in unnumbered A.S. of 2008, the instant Civil Revision Petition has been filed under Section 115 of the Civil Procedure Code.

5. Heard Mr.G.Rajan, learned counsel for the petitioner and Mr.S.Umapathy, learned counsel for the respondent.

6. The suit has been filed by the respondent in O.S. No.343 of 2000 against the petitioner for recovery of money based on the mortgage deeds executed by the petitioner in favour of the respondent. The said suit was also decreed in favour of the respondent on 11.10.2006. Instead of filing the appeal within the prescribed period, the petitioner admittedly filed an appeal with an inordinate delay of 648 days. Even though the petitioner has stated in his affidavit filed in support of I.A. No.58 of 2008 in unnumbered A.S. of 2008 that he was suffering from Jaundice and was taking country treatment, no supporting document like that of Medical Certificate or other medical records were produced before the Court below.

7. This Court has also perused and examined the impugned order. In the considered view of this Court, the Court below has rightly rejected the application viz., I.A. No.58 of 2008 filed by the petitioner seeking condonation of the inordinate delay of 648 days in filing the appeal and does not find any infirmity in the impugned order passed by the Trial Court. Accordingly, there is no merit in this Civil Revision Petition and the same is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

24.07.2019

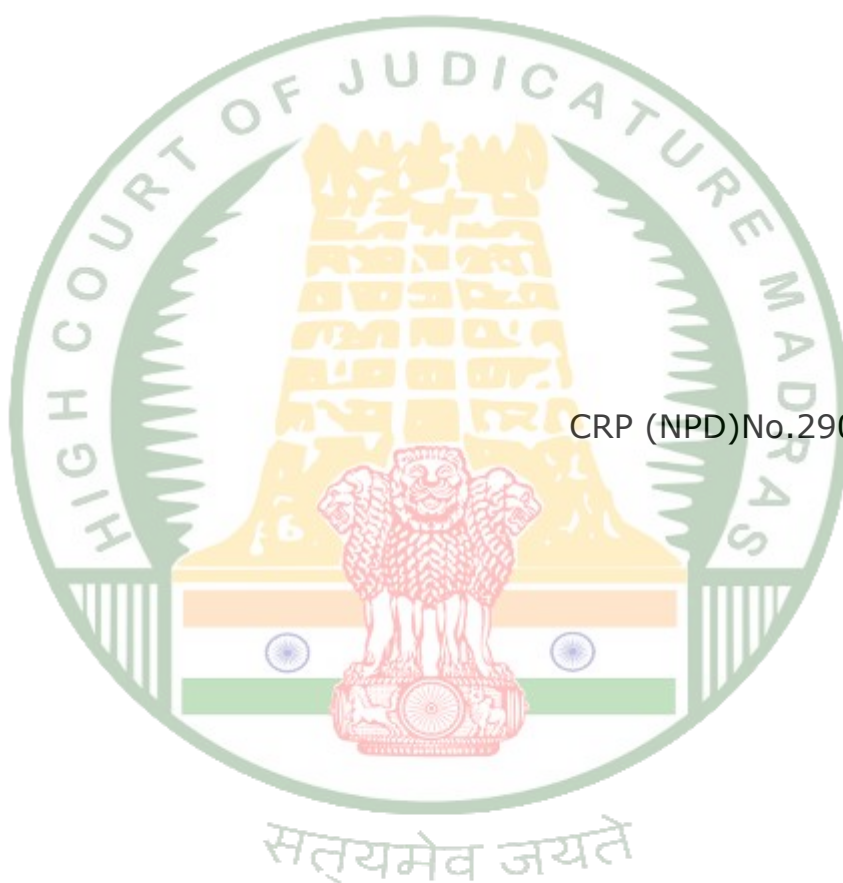
Index: Yes/ No
Internet: Yes/No
Speaking Order/Non-speaking Order
vsi2

To
The Principal District Judge,
Tiruvannamalai.

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ABDUL QUDDHOSE, J.

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CRP (NPD)No.2905 of 2014

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24.07.2019