

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.2913 of 2014
and
M.P.No.1 of 2014

Sukumar ... Petitioner

Versus

Govindhan ...Respondent

PRAYER: This Civil Revision Petition has been filed under Section 115 of CPC to set aside the order dated 28.02.2013, made in I.A.No.686 of 2012 in O.S.No.54 of 2009, on the file of the learned Subordinate Judge, Tambaram, Chengalpat District.

For Petitioner : Mr.S.Senthil Nathan
For Respondent : No appearance

ORDER

The Civil Revision Petition has been filed against the order passed by the learned Subordinate Judge, Tambaram, Chengalpat District, in I.A.No.686 of 2012 in O.S.No.54 of 2009, dated 28.02.2013.

2 The sole defendant in O.S.No.54 of 2009 is the revision petitioner herein.

3 The brief facts of the case are as follows:

The respondent herein has filed a suit in O.S.No.54 of 2009 for recovery of money due on pro-note and the same was decreed ex-parte on 13.02.2012, for the non appearance of the defendant through advocate and hence, petition to set aside the ex-parte under Order IX Rule XIII of CPC was filed. As there was a delay, necessary application in I.A.No.686 of 2012 was filed to condone the delay of 109 days in setting aside the ex-parte order under Section 5 of the Limitation Act. The reason assigned for the delay is that the mother-in-law of the defendant/revision petitioner was admitted in hospital at Kumbakonam and hence, he could not able to send the vakalath, though the counsel has undertaken to file vakalath from the hearing date fixed by the Court. After hearing the reason assigned for condone the delay, the learned Subordinate Judge, Tambaram has dismissed the same. As against the same the revision petitioner/defendant has preferred this Civil Revision Petition.

4 Heard the learned counsel for the petitioner and perused the materials placed on records.

5 It appears from the records that the Trial Court has accepted the plea as a valid reason for setting aside the ex-parte but

not for the sufficient cause to condone the delay. This Court has perused the affidavit filed in support of the condone delay petition and is satisfied with the reason assigned by the petitioner in the condone delay petition and the petitioner was prevented from showing sufficient cause in coming to the Court on time.

6 With the above observations, the Civil Revision Petition is allowed and order passed by the learned Subordinate Judge, Tambaram, Chengalpat District, in I.A.No.686 of 2012 in O.S.No.54 of 2009, dated 28.02.2013, is set aside. The Lower Court is directed to number the petition to set aside the ex-parte order in Order IX Rule XIII, within a period of three weeks from the date of receipt of a copy of this order and also directed to dispose of the same within a period of six weeks thereafter. No costs. Consequently, connected miscellaneous petition is closed.

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Speaking Order:Yes/No

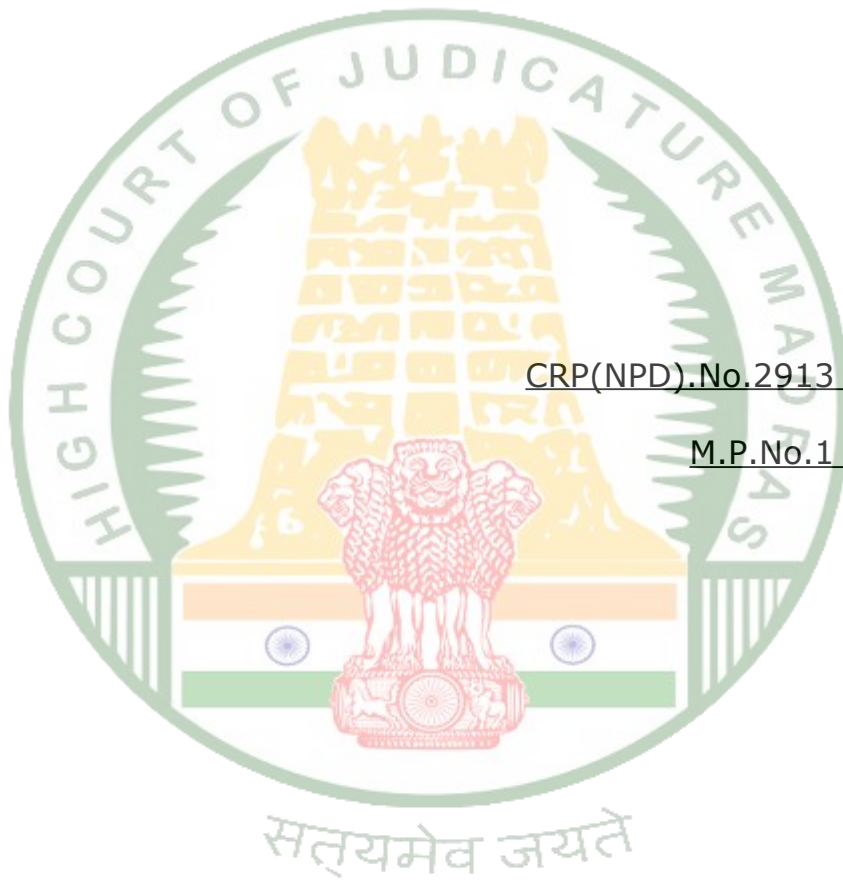
To
The Subordinate Judge,
Tambaram, Chengalpat District.

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RMT.TEEKAA RAMAN., J.

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