

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2019

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THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP (NPD) No.3360 of 2014
and
M.P. No.1 of 2014

1.U.Srivilas
2.Thulasingam

... Petitioners

Vs

Freddy Homi Pavri rep. by
Power Agent Mr.V.F.Irani

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure against the fair and decretal order dated 28.04.2014 made in I.A.No.14801 of 2012 in I.A.No.8973 of 2005 in O.S.No.4106 of 2000 on the file of XI Assistant Judge, City Civil Court, Chennai.

For Petitioners

: Mr.M.V.Venkateseshan

For Respondent

: Mr. M.V.Venkateseshan

ORDER

The instant civil revision petition has been filed challenging the order dated 28.04.2014 in I.A.No.14801 of 2012 in I.A.No.8973 of 2012 in O.S.No.4106 of 2000 on the file of the learned XI Assistant Judge, City Civil Court, Chennai.

Brief facts leading to the filing of the instant revision:

2. The petitioners are the defendants in the suit O.S.No.4106 of 2000 filed by the respondent seeking for declaration that the partnership firm namely M/s.Ahura Enterprise at No.102, St. Mary's Road, Raja Annamalaipuram, Chennai 600 018 is dissolved with effect from 25.06.1997 and also seeking for a direction to the petitioners/defendants to render accounts of the firm and its business, including its assets from 22.07.1993. A preliminary decree dated 24.11.2003 came to be passed against the petitioners in O.S.No.4106 of 2000. Admittedly, no appeal was filed by the petitioners against the said preliminary decree and the said preliminary decree has attained finality. Thereafter, the respondents filed an application I.A.No.8973 of 2005 for passing of final decree and the petitioners/defendants were set ex parte and an ex parte

final decree dated 08.12.2011 came to be passed against the petitioners in favour of the respondent. The petitioners filed I.A.No.14801 of 2012 to condone the delay of 149 days in filing an application to set aside the ex parte final decree dated 08.12.2011. The said application came to be dismissed on 28.04.2014. Aggrieved by the dismissal of the condone delay application, the instant revision has been filed.

3. Heard Mr.M.V.Venkateshan, learned counsel for the petitioners and Mr.M.V.Venkateshan, learned counsel for the respondent.

Discussion:

4. Admittedly, the preliminary decree dated 24.11.2003 passed in O.S.No.4106 of 2000 against the petitioners has attained finality, since no appeal has been filed by the petitioners against the said preliminary decree. The petitioners were also set ex parte in the final decree proceedings initiated by the respondent and final decree has also been passed in favour of the respondent and the Court has also appointed an Advocate Commissioner for the said purpose.

5. This being the case without challenging the preliminary decree dated 24.11.2003 passed in O.S.No.4106 of 2000, even if the condone delay application is allowed, it will not enure to the benefit of the petitioners/defendants. The Trial Court has rightly rejected the application filed by the petitioners as no sufficient reasons have been given by the petitioners for condoning the delay. This Court is in agreement with the view taken by the Trial Court and does not find any merit in the instant revision.

Conclusion:

6. In the result, the instant Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

17.06.2019

Index: Yes/ No

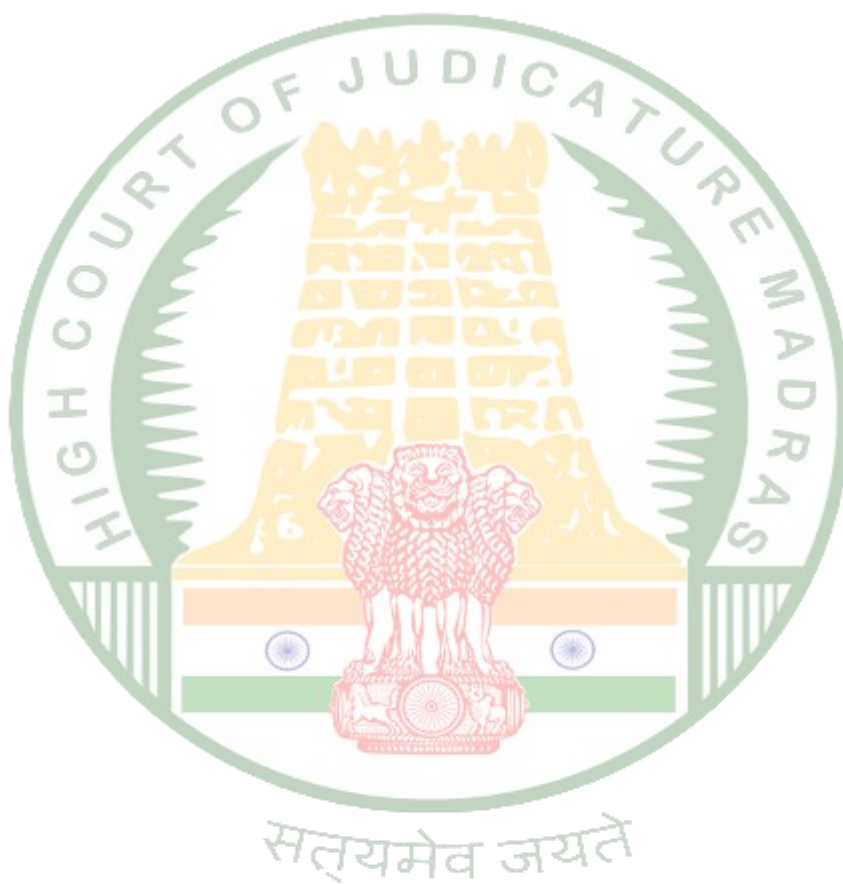
Internet: Yes/No

Speaking Order/Non-speaking Order

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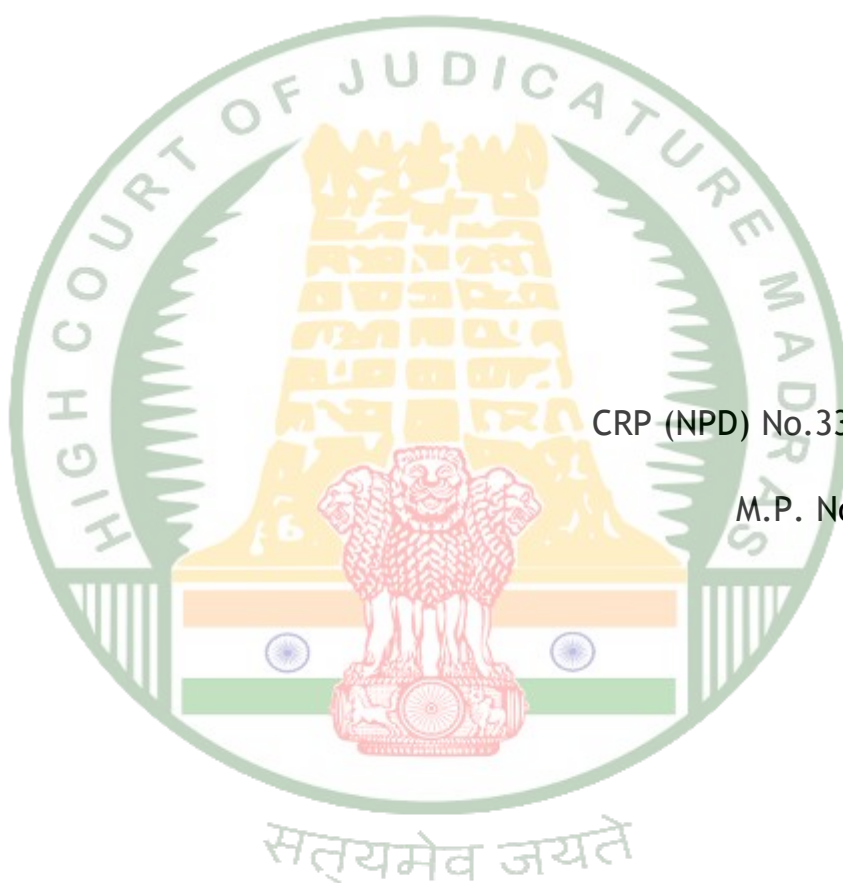
1) XI Assistant Judge, City Civil Court, Chennai.



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ABDUL QUDDHOSE, J.

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