

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

CRP(NPD)No.3366 of 2014

K.Krishnamoorthy ... Petitioner
Vs
Thiru.K.Ramanathan ... Respondent

Prayer: Civil Revision Petition filed under Article 227 of Constitution of India, against the order in I.A.No.33/2013 in A.S.No.Nil of 2013 dated 20.01.2014 passed by the Learned District Judge at Tiruvannamalai.

For Petitioner : Mr.B.Gopala Krishnan
for Mr.A.Rajesh Kanna
For Respondent : Ms.Mahalakshmi
for Dr.Gouri

ORDER

The instant Civil Revision Petition has been filed challenging the order dated 20.01.2014, passed by the learned District Judge at Tiruvannamalai in I.A.No.33 of 2013 in A.S.No.Nil of 2013.

Brief facts leading to the filing of the instant revision:

2.The petitioner filed an appeal as against the Judgment and Decree dated 13.02.2013, passed against him in O.S.No.159 of 2009, on the file of the Principal Sub Court, Tiruvannamalai. The said suit

was filed for specific performance by the respondent and the suit was decreed against the petitioner in favour of the respondent on 13.02.2013.

3. Aggrieved by the Judgment and Decree dated 13.02.2013, the petitioner, who is the defendant in the suit filed an appeal with a delay of 5 days. I.A.No.33 of 2013 was filed in A.S.No.Nil of 2013, seeking to condone the delay of 5 days in filing the appeal.

4. By an order dated 20.01.2014, the Court below allowed I.A.No.33 of 2013 and condoned the delay of 5 days in filing the appeal on condition that the petitioner pays a sum of Rs.500/- to the respondent on or before 16.01.2014. But, the petitioner failed to comply with the said condition and therefore, I.A.No.33 of 2013 filed by the petitioner came to be dismissed for non-compliance of the conditional order.

5. Aggrieved by the dismissal of I.A.No.33 of 2013 in A.S.No.Nil of 2013, the petitioner has preferred this Civil Revision Petition under Article 227 of the Constitution of India.

6.Heard Mr.B.Gopala Krishnan, learned counsel for the petitioner and Ms.Mahalakshmi, learned counsel for the respondent.

7.The learned counsel for the petitioner on instructions submits that the petitioner is willing to pay the cost as directed by the Court below in I.A.No.33 of 2013 in A.S.No.Nil of 2013. But, however, the learned counsel for the respondent would contend that the petitioner should now be imposed with heavy cost.

Discussion:

8.This Court after hearing the rival submissions and after considering the delay which is only 5 days in filing the appeal, this Court is of the considered view that the petitioner be directed to pay a sum of Rs.1,000/- as costs instead of Rs.500/- directed by the Court below under the impugned order dated 20.01.2014.

9.The aforesaid order is being passed only in the interest of justice as the suit for specific performance has been decreed in favour of the respondent against the petitioner and therefore, the petitioner should be allowed to challenge the judgment and decree passed in the suit.

10. In the result, the impugned order dated 20.01.2014, passed in I.A.No.33 of 2013 in A.S.No.Nil of 2013 by the Learned District Judge at Tiruvannamalai is hereby set aside on condition that the petitioner pays a sum of Rs.1,000/- to the learned counsel for the respondent on or before 09.07.2019 and on such payment, the Civil Revision Petition is allowed, failing which the order passed by this Court will stand automatically dismissed. After pronouncement of the order, the petitioner's counsel has also handed over a sum of Rs.1,000/- to the respondent's counsel Ms.Mahalakshmi in Open Court which has been duly acknowledged by her.

11. In view of the compliance of the conditional order by the petitioner, this Civil Revision Petition is allowed as prayed for. No costs.

सत्यमेव जयते

02.07.2019

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Index: Yes/ No

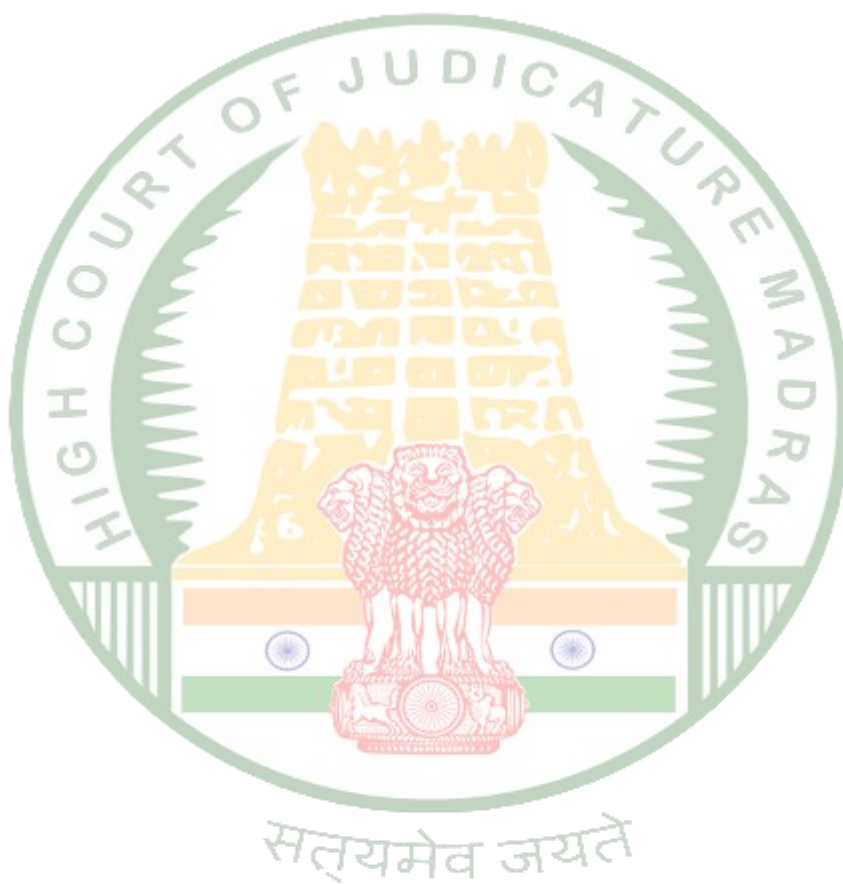
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Speaking Order/Non-speaking Order

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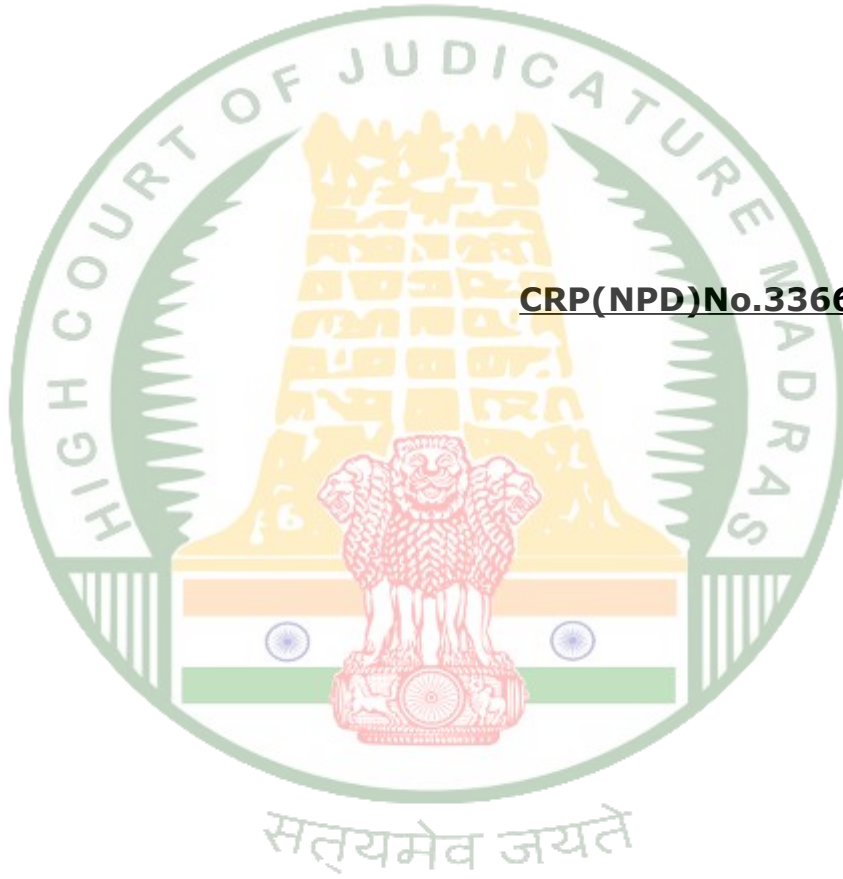
The District Judge at Tiruvannamalai.



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ABDUL QUDDHOSE, J.

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