

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2019

CORAM:

THE HONOURABLE MR. JUSTICE **R.PONGIAPPAN**

C.R.P.NPD.No.4765 of 2014
& M.P.No.1 of 2014

1. Raman
2. Mathaiyan
3. Murugan
4. Macharegai
5. Palaniammal

.... Petitioners

Vs

Murugan

.... Respondent

PRAYER: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, to set aside fair and decretal order dated 12.09.2014 passed in I.A.No.579 of 2014 in O.S.No.198 of 2000 on the file of the District Munsif, Palacode.

For Petitioners : Mr.S.Saravanakumar

For Respondent : Mr.R.Selvakumar

ORDER

Aggrieved over the order dated 12.09.2014, passed in I.A.No.579 of 2014 in O.S.No.198 of 2000, on the file of the District Munsif, Palacode, the petitioners, who are the defendants in the above referred suit, filed this Civil Revision Petition.

2. Before the trial Court, the respondent has filed above referred suit for the relief of permanent injunction restraining the petitioners/defendants from interfering with his peaceful possession and enjoyment of the suit property. According to the learned counsels appearing on either side, on 14.06.2002, the learned District Munsif, Palacode, has passed an order of exparte in O.S.No.198 of 2002.

3. Subsequently, the petitioners herein filed an application before the learned District Munsif, Palacode, to set aside the order of exparte. The said application filed by the petitioners was returned by the Office of the District Munsif Court, Palacode, by finding out same defects. Further there was a direction to the petitioners to re-present the returned application within a specific time. But instead of complying the said direction, the petitioners re-presented the said application with the delay of 292 days. The learned District Munsif, Palacode, after affording opportunity to the respondent dismissed the said petition, by holding that the reason for the delay was not explained by the petitioners and hence the petition filed by the petitioners to condone the delay in re-presentation is not maintainable. Aggrieved over the said order dated 12.09.2014, the petitioners/defendants are before this Court.

4. The learned Counsel appearing for the petitioners made a

submission that in order to decide the application filed by the petitioners to set aside the exparte decree, it is necessary to condone the delay in re-presenting the said application filed by the petitioners by the trial Court. Hence, he prayed to allow this Civil Revision Petition.

5. On the other hand, the learned counsel appearing for the respondent would contend that in the affidavit filed by the petitioners, they have not stated any bonafide reasons to condone the delay of 292 days and accordingly for allowing this petition, the petitioners have not projected any sufficient cause and thereby the present petition filed by the petitioners is liable to dismiss.

6. Submissions made by the learned counsels appearing on either side are considered.

7. Now on going through the affidavit filed by the petitioners in support of the petition, they have not stated any reasonable explanation for the delay of 292 days. More than that, the said application had been filed by an Advocate Clerk and in the affidavit, he has stated that the returned application, in respect to this Civil Revision Petition, was mixed up with other bundles and for that reason the same was not re-presented in due time.

8. More than that in the affidavit filed by the petitioners, they have not

stated any thing about the date on which the exparte order was passed or the date on which they filed the application to set aside the exparte decree or the date on which the said application was returned or the date on which the said application was re-presented before the trial Court. This attitude establish the fact that the petitioners have acted lethargically without giving any importance to the suit proceedings. More than that the suit pertains to this Civil Revision Petition has been filed only for the relief of injunction simplicity. Since for the reason that the petitioners did not project sufficient cause to condone the delay of 292 days, I am of the opinion that the Civil Revision Petition filed by the petitioners deserves to be dismissed.

9. Accordingly, this Civil Revision Petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

20.09.2019

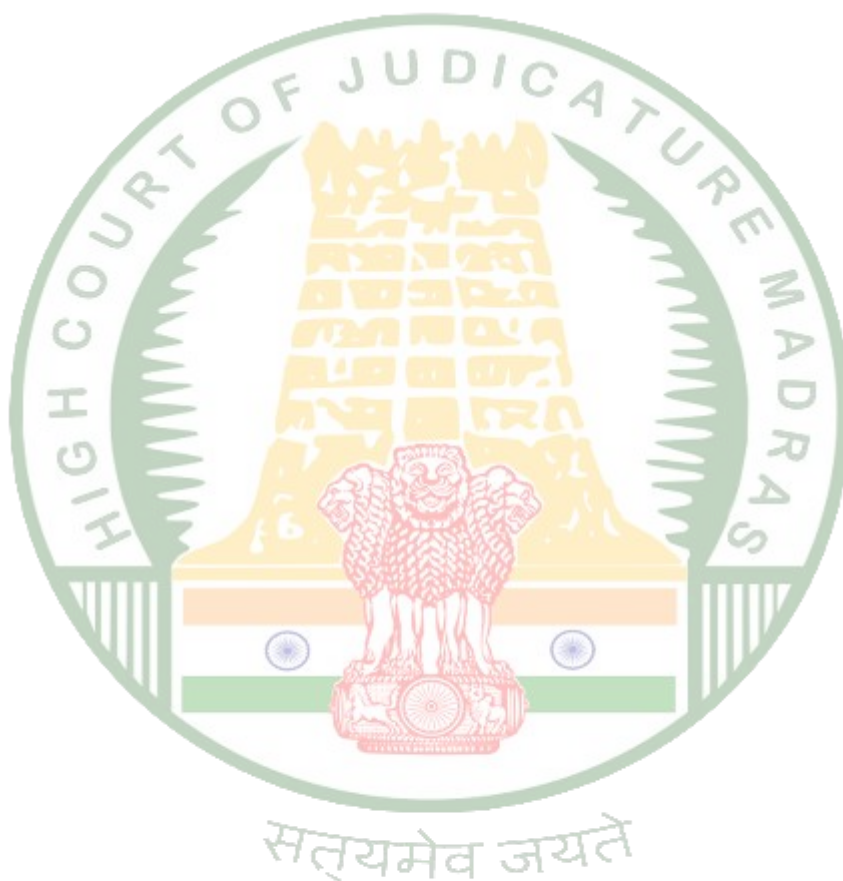
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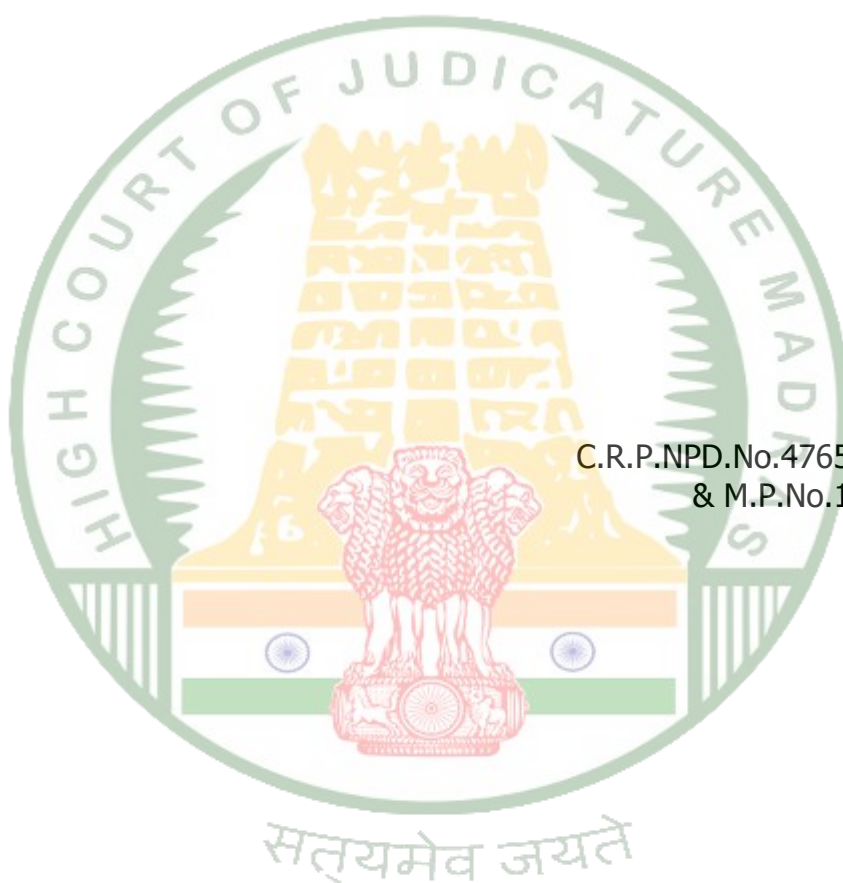
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R.PONGIAPPAN, J.

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