

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2019

CORAM

THE HONOURABLE MR.JUSTICE C.SARAVANAN

C.R.P(NPD). Nos.840 & 1478 of 2014

and

M.P.Nos.1+1 of 2014

K.P.Venkatachalam

..Petitioner in
CRP(NPD) No.840 of 2014

1. Ramayee

2. K.P.Venkatachalam

3. Ponnaya

4. Kaandhamani

5. Satheesh

..Petitioners in
CRP(NPD) No.1478 of 2014

Vs

सत्यमेव जयते

S.R.Venkatachalam

..Respondent in
both C.R.Ps

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Common Prayer :- Civil Revision Petitions filed under Article 227 of Constitution of India, praying to set aside the fair and decretal order dated 15.07.2013 passed in I.A.Nos.940 & 531 of 2012 in O.S.Nos.114 & 108 of 2009 on the file of the Sub Ordinate Judge, Tiruchengode, by allowing these Civil Revision Petitions.

For Petitioners in both C.R.Ps : Mr.R.Marudhachalamurthy

For Respondent in both C.R.Ps :Mrs. Zeenath Begum

COMMON ORDER

The present Civil Revision Petitions have been filed to set aside the fair and decreetal order dated 15.07.2013 passed in I.A.Nos.940 & 531 of 2012 in O.S.Nos.114 & 108 of 2009 on the file of the Sub Ordinate Judge, Tiruchengode rejecting the application filed under Order 9 Rule 12 of Civil Procedure Code.

2. In both revision petitions, the petitioners were set exparte and thereafter an exparte decree came to be passed on 14.02.2009 and 24.03.2010 respectively. The petitioners herein who are the defendants in the respective suits filed the application to set aside the exparte decree which came to be rejected by the respective fair and decreetal order dated 15.07.2013, rejecting their application for setting aside the exparte decree passed in favour of the respondent/plaintiff.

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3. The learned Subordinate Judge, Tiruchengode has observed that an affidavits filed in support of the applications to set aside the exparte decree were vague and did not contain any valid reason for condoning the delay of 564 days in C.R.P.NPD.840 of 2014 and 432 days in

4. The delay has not been properly explained and the affidavit filed by the petitioner for condoning the delay in filing the exparte decree is stated to be very sketchy. However, the judgment and decree passed in the respective suits are also equally sketchy and gave no reasoning as required as per the decision of the Hon'ble Supreme Court in **Ramesh Chand Ardawatiya v. Anil Panjwani** in Civil Appeal No.7919 of 2001 dated 05.05.2003, followed by the Division Bench of this Court in **M/s.Meenakshisundaram Textiles Vs. M/s.Valliammal Textiles Ltd**, dated 07.03.2011 in C.M.A.No.3700 of 2010.

5. Considering the fact that the judgment and decree also does not bear reasoning, ends of justice will be met if the case is remanded back to the Subordinate Court, Tiruchengode for fresh disposal on merits. The petitioners are at liberty to file proper affidavits explaining the delay. The respondent may also file counter if any.

6. The case is thus remanded back to the original authority for permitting the petitioners to file the proper affidavit to set aside the exparte judgment and decree. Petitioners shall also file a written statement along with leave to file a written statement.

7. The petitioners in each of the revision petitions shall pay a sum of Rs.5,000/- as cost to the respondent herein. Subject to the above condition, both the Civil Revision Petitions are allowed. Consequently, connected miscellaneous petitions are closed.

11.02.2019

Index : Yes/No

Internet : Yes/No

ssn

To

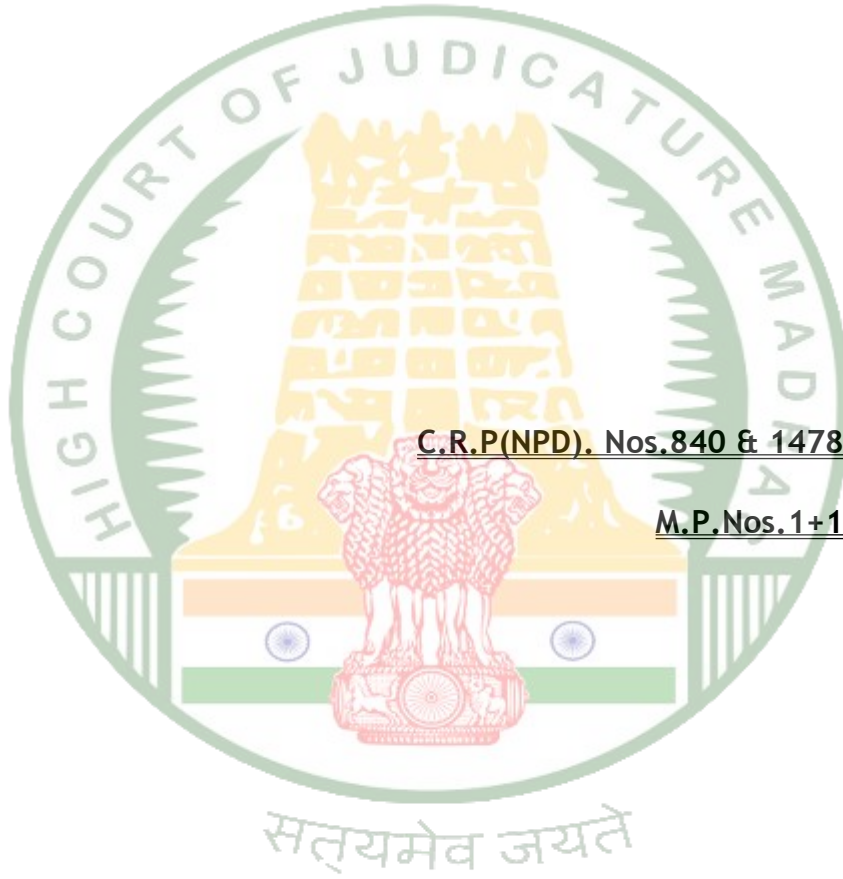
The Subordinate Judge,
Tiruchengode.



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C.SARAVANAN.J.,

ssn



C.R.P(NPD). Nos.840 & 1478 of 2014
and
M.P.Nos.1+1 of 2014

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11.02.2019

C.R.P.(NPD).Nos.840 & 1478 of 2014**C.SARAVANAN.,J.**

Today, these cases were listed today under the caption "For Being Mentioned" at the instance of the learned counsel for the respondent.

2. The learned counsel for respondent brings to the notice of this Court in paragraph 7 of the common order dated 11.02.2019 in C.R.P.(NPD).Nos.840 & 1478 of 2014, the petitioners in each of the revision petitions were directed to pay a sum of Rs.5,000/- to respondent. But no time was specified in the common order.

3.The learned counsel for the petitioners is present. He seeks two weeks time to pay the aforesaid amount from the date of receipt of a copy of this order.

4.Recordings the submissions of the both parties. I am inclined to fix the time to pay the aforesaid amount. Therefore, the paragraph No.7 shall read as follows:-

C.SARAVANAN.,J.

Jen

"7.The petitioners in each of the revision petitions shall pay a sum of Rs.5,000/- as cost to the respondent herein within a period of two weeks from the date of receipt of a copy of this order. Subject to the above condition, both the Civil Revision Petitions are allowed. Consequently, connected Miscellaneous Petitions are closed."

26.06.2019

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Note: Registry is directed to carry out the above corrections and issue fresh copy to the parties.

सत्यमेव जयते

Issue a copy of this order on 27.06.2019.

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C.R.P.(NPD).Nos.840 & 1478 of 2014