

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED : 04.12.2019

CORAM

**THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN**

C.R.P. (NPD) 3916 of 2019

and

C.M.P. 25847 of 2019

S.Rajesh Kumar ... Petitioner

Versus

1. M/s.Geethanjali Financiers,  
rep. by Managing Partner,  
Santhapet, Gudiyattam Town,  
Vellore District.

2. M.Krishnamoorthy

3. K.Rajesh

4. K.Poornima

... Respondents

**PRAYER** : Civil Revision Petition is filed under Section 115 of Civil Procedure Code, praying to set aside the Fair and Decretal order made in I.A.No.107 of 2017 in C.M.A. No.Nil of 2017, on the file of the Principal District Judge, Vellore, Vellore District, dated 28.02.2019.

For Petitioner : Mr.K.A.Ravindran

For Respondents : Mr.A.K.Raghavulu for R1

**ORDER**

This Civil Revision Petition has been filed challenging the order dismissing the petitioner's application filed under Sec.5 of Limitation Act to condone the delay of 162 days in filing the appeal.

2. The 1<sup>st</sup> respondent herein filed a suit against the 2<sup>nd</sup> respondent herein for recovery of money, and also obtained a decree, thereafter, he has levied execution. In the Execution Petition, the petitioner has filed a claim petition on the ground that he has purchased the property, claiming independent title over the same in E.A.No.86 of 2014. That application has been dismissed by the Execution Court on the ground that, the petitioner has filed the application without filing petition to condone the delay. Challenging that order, the petitioner has filed an appeal along with a petition to condone the delay of 162 days in filing the appeal. That application came to be dismissed by the lower court. Now, challenging the same, the present Civil Revision Petition has been filed.

3. I have heard and considered the submissions made by the learned counsel appearing for the petitioner as well as the learned counsel appearing for respondent and perused the records carefully.

4. On perusal of materials available on record, it could be seen that, the claim petition filed by the petitioner in E.A.No.86 of 2014, held not maintainable as it was filed without the petition to condone the delay. Thereafter, he has filed an appeal along with a petition to condone the delay of 162 days, but there is no proper explanation for the delay of 162 days in filing the appeal. Considering the circumstances, the Court below has rightly dismissed the application, and there is no illegality and irregularity in the order passed by the lower court.

5. The learned counsel appearing for the petitioner submitted that, now the petitioner has filed a fresh application before the Execution Court along with a petition to condone the delay, and that application is pending before the Execution Court in E.A.16 of 2019 in E.P. 69 of 2008 in O.S. 191 of 2002 on the file of Sub-Court, Gudiyattam, and that application may be directed to dispose expeditiously.

6. Considering the submissions, the learned Sub-Judge, Gudiyattam is directed to consider the above application, and pass orders on merits within a period of six weeks from the date of receipt of the copy of this order.

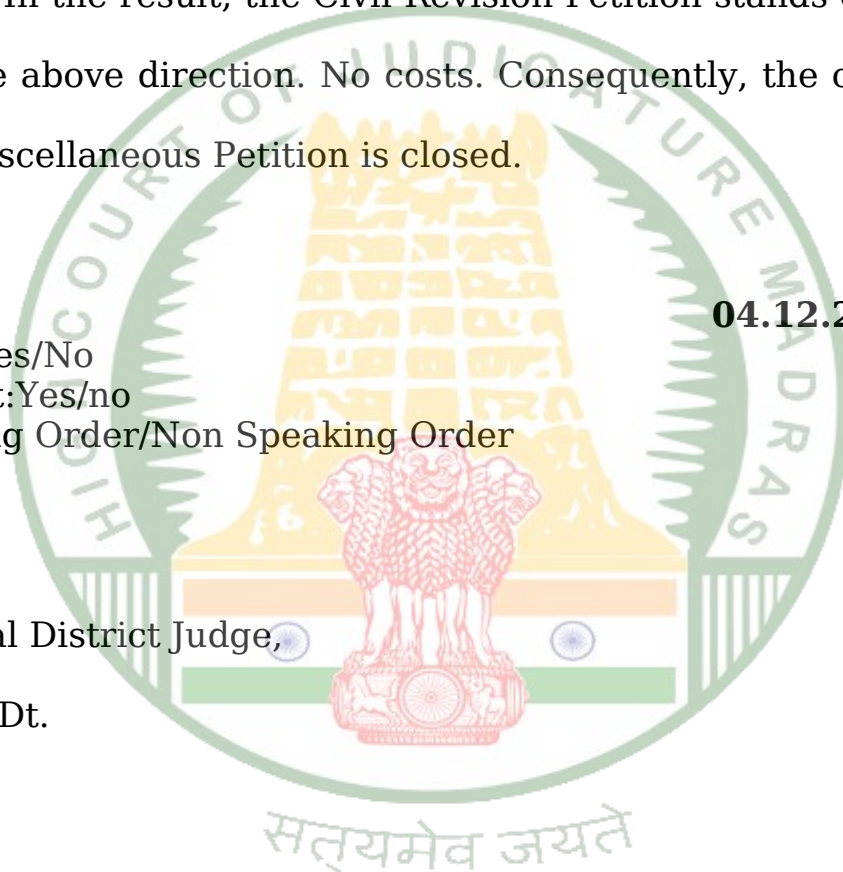
7. In the result, the Civil Revision Petition stands dismissed with the above direction. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

**04.12.2019**

Index:Yes/No  
Internet:Yes/no  
Speaking Order/Non Speaking Order  
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To

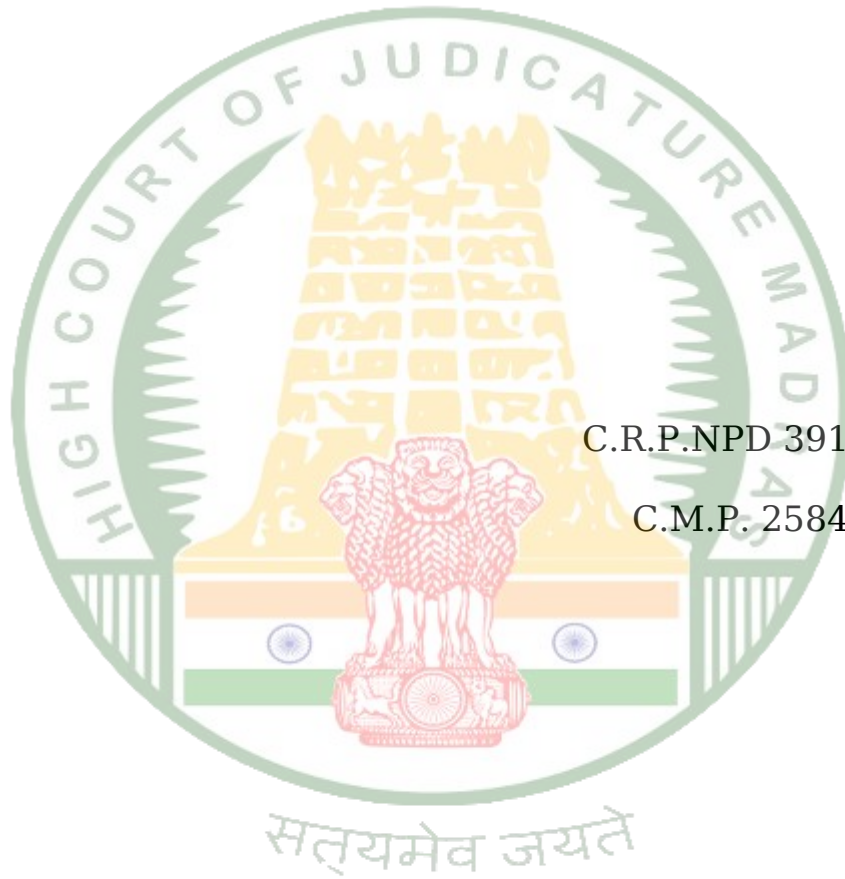
Principal District Judge,  
Vellore,  
Vellore Dt.



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**V.BHARATHIDASAN,J.**

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