

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.10.2019

CORAM:

THE HONOURABLE Mr. JUSTICE R. SURESH KUMAR

C.R.P. (PD) No. 3292 of 2019
and
C.M.P. No. 21378 of 2019

1. Bagayalaksmi

2. Jayakumar ... Petitioners

-Vs-

Sekar ... Respondent

Prayer : Petition filed under Article 227 of the Constitution of India against the O.S. No. 173 of 2019 on the file of the Hon'ble District Munsif Judge, Salem, dated 03.06.2019.

For Petitioners : Ms. Bagayalakshmi

Party-in-person

For Respondent : Ms. J. Franklin

ORDER

This Civil Revision Petition has been filed by the petitioners, who appeared party-in-persons, their grievance is that, in the suit in O.S. No. 173 of 2019 at District Munisf Court, Salem, they filed a memo on

03.06.2019, whereby they sought for awaiting the decision to be taken in the Mediation Center, where the issue raised in the suit had already been referred. However, it seems that, the said memo has not been accepted by the Court below, therefore, the prayer seeking for direction to the Principal District Munisf Court, Salem, to number the memo filed by them in O. S. No. 173 of 2019 dated 03.06.2019 has been filed in this revision.

2. Heard the petitioners who appeared party-in-persons and also the learned counsel appearing for the respondent.

3. The learned counsel appearing for the respondent brought to the notice of this Court that, on 20.08.2019, the suit was posted for filing of written statement by the first and second defendants, who are the revision petitioners herein. Since they have not filed the written statement, they were called absent and set exparte and for the evidence of the plaintiff, it is posted on 20.09.2019.

4. Therefore, as of now, the revision petitioners had already been set exparte in the suit, unless and until, the exparte order is set aside in the manner known to law, the petitioners cannot seek any indulgence from this Court on the alleged memo filed by them on 03.06.2019.

5. I have considered the said submissions made by the learned counsel appearing for the respondent and also heard the petitioners who appeared party-in-persons, who submit that on 20.08.2019, they reached the Court belatedly, before which, they have been set exparte, even though they filed an application that was not accepted.

6. Considering all these aspects, this Court is inclined to dispose of this revision petition with the following directions:-

"(i) That the petitioners are hereby given liberty to file a petition to set aside the exparte order dated 20.08.2019, wherein, if there is any delay to file the said petition, necessary condone delay petition also can be filed, if any such petitions along with written statement are filed immediately after Pooja Holidays i.e., on or

before 21.10.2019, the Court below can entertain the same and decide the same on merits. While deciding the same, the trial Court shall take into account that, the petitioners appeared party-in-persons and therefore that also definitely be taken note of and appropriate orders to that effect to be passed in a pragmatic view.

(ii) Once the petition filed by the petitioners is accepted and the exparte order is set aside, it is open to the petitioners to press for their memo to be considered and in that case, it is open to the Court below to consider the said memo on merits depending upon the situation prevailing there on."

7. With these observations and directions, this Civil Revision Petition is disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs

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Index : Yes / No

Speaking order / Non speaking order

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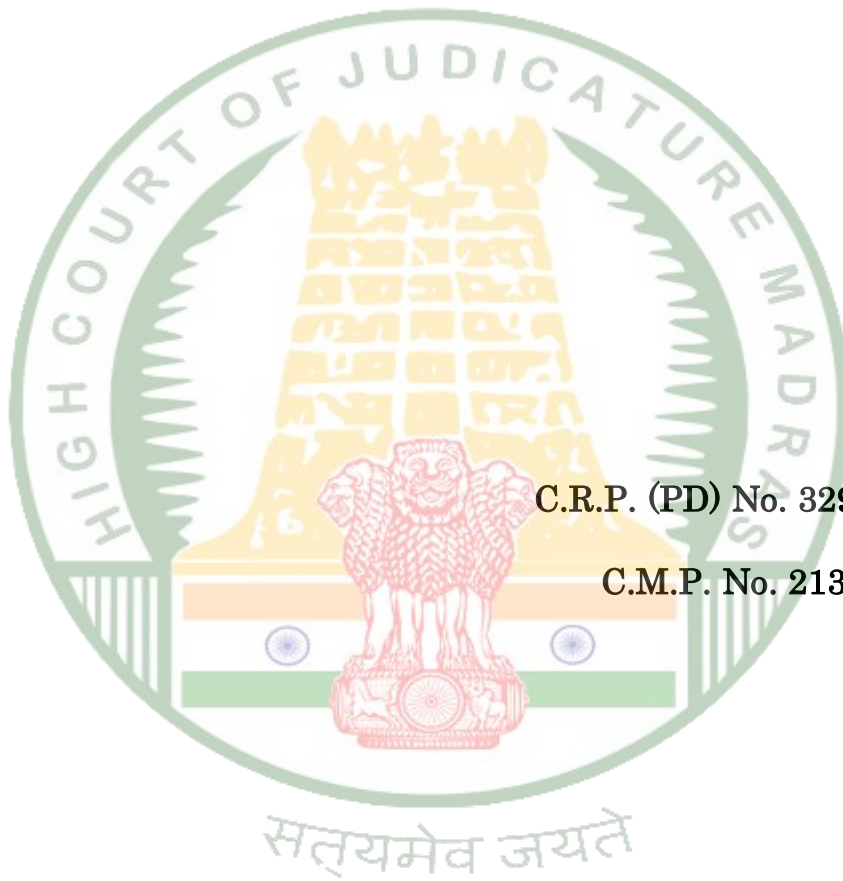
The Hon'ble District Munsif Judge,
Salem.



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R. SURESH KUMAR, J.

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