

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :24.04.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).Nos.2978 and 3016 of 2017

R.Ranganathan ... Petitioner in both W.Ps

-VS-

Tmt.Prabha ... Respondent in both W.Ps

**COMMON PRAYER:**

Civil Revision Petitions filed under Section 115 of the Code of Civil Procedure, to set aside the Fair and Decretal order dated 22.04.2016 in I.A.No.49 of 2016 in A.S.No.nil of 2016 on the file of the Hon'ble Subordinate Judge, Vaniyampadi, Vellore District and the Fair and Decretal order dated 18.03.2016 in I.A.No.56 of 2015 in A.S.No.nil of 2015 on the file of the Hon'ble Subordinate Judge, Vaniyambadi, Vellore District.

For Petitioner : Mr.J.Muthukumaran in both W.Ps

For Respondent : Mr.PA.Sudesh Kumar in both W.Ps

**COMMON ORDER**

The Civil Revision Petition No.2978 of 2017 is filed challenging the order passed in I.A.No.49 of 2016 in A.S.No.nil of 2016 and the Civil Revision Petition No.3016 of 2017 is filed challenging the order passed in I.A.No.56 of 2015 in the same A.S.No.nil of 2016.

2.The brief facts necessary to dispose of the Civil Revision Petitions are as follows:

(i)The revision petitioner is the legal heir of the original plaintiff who had filed the Suit in O.S.No.73 of 2005 on the file of the Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi for declaration and permanent injunction. The said Suit was dismissed by Judgment and Decree dated 14.03.2012, which was taken on challenge, in first appeal by the revision petitioner herein since the original plaintiff had died.

(ii)There was a delay of 72 days in filing the said appeal and I.A.No.56 of 2015 was filed to condone the delay of 72 days in filing the appeal. This Interlocutory Application was allowed by order dated 18.03.2016 on condition that the revision petitioner/appellant shall pay a sum of Rs.5,000 as cost to the respondent. The time for the payment of the same was given as 04.04.2016 and the order had stated that the failure to comply with the said terms would result in its dismissal.

(iii)It is seen that revision petitioner/appellant had not complied with the said order and consequently, the I.A.No.56 of 2015 came to be dismissed. Thereafter, I.A.No.49 of 2016 was filed by the revision petitioner to extend the time for paying the cost directed to be paid in I.A.No.56 of 2016. This Application was also ordered subject to the

condition that the revision petitioner pay a cost of Rs.100 and the time for complying with the order was fixed on 27.04.2016. This order was also not complied by the revision petitioner/appellant and therefore, I.A.No.49 of 2016 was dismissed for non-compliance. The revision petitioner has come forward with the present Civil Revision Petitions challenging the above said orders.

3.When the matter was taken up today, this Court after hearing both sides requested the respondent to receive the cost as directed by the learned Principal District Munsif-cum-Judicial Magistrate, Vaniyambadi and the said sum has also been paid to the respondent by the revision petitioner.

4.In the result, the Civil Revision Petitions are allowed. The order passed in I.A.No.56 of 2015 and I.A.No.46 of 2016 in A.S.No.nil of 2016 is set aside. The learned Subordinate Judge, Vaniyambadi is directed to number the first appeal and thereafter proceed to dispose of the first appeal within a period of five months from the date of receipt of a copy of this order. No costs.

**24.04.2019**

Index : Yes/No

Internet : Yes / No

Speaking/non-speaking order  
tsg

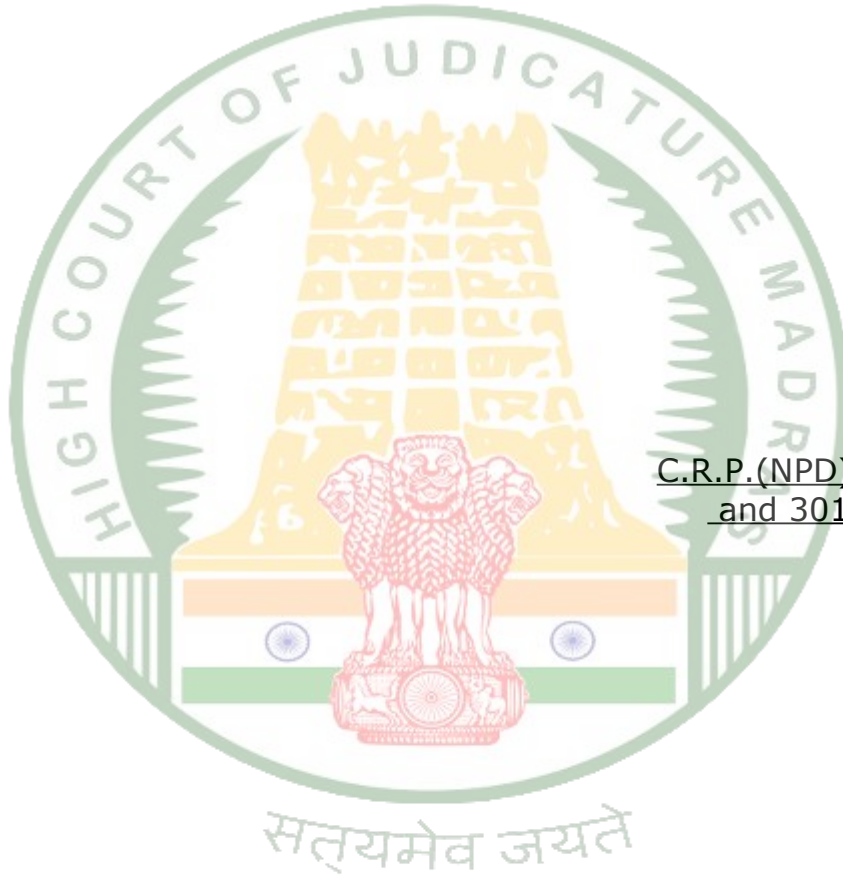
To

1. learned Subordinage Judge, Vaniyambadi,  
Vellore District.
2. learned Principal District  
Munsif-cum-Judicial Magistrate,  
Vaniyambadi.



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P.T.ASHA.J.,  
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