

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2020

CORAM :

THE HONOURABLE MR. JUSTICE N.SATHISH KUMAR

Application No.6512 of 2015

in
C.S.No.SR 21596 of 2010

Operating Lease and Hire Purchase Company Ltd.
Rep. by its Authorised Signatory Mrs.A.Hema Jothi
registered office at 'R 10, IInd Floor,
Prem Nagar Colony, South Boag Road,
T.Nagar, Chennai 600 017. ... Applicant/Plaintiff

Vs.

1. Feena Petro Producgts Ltd.
No.622, Mount Road,
Chennai 600 006.

2. Mariya Anthony Ammal

3. Feena Agro Products Ltd..
No.322, Mount Road,
Chennai 600 006.

... Respondents/Defendants

4. M.Jesu Rathinabai

5. S.M.Anthoni Thomas

6. S.Karunai Newton

7. S.Paul Winston

8. S.Bonibas Britten

9. S.Peter Youngston

... Respondents/Respondents

(Respondents 4 to 9 impleaded vide order, dated 26.8.2017 in A.No.4969 of 2017)

PRAYER : Application filed under Order XIV Rule 12 of O.S.Rules to set aside the order passed by the Master, dated 25.4.2014 in A.No.2607 of 2014 in C.S.D.No.21596 of 2010.

For Applicant : Mr.M.S.Seshadri
For Respondents : No appearance

ORDER

This application has been filed against the order passed by the learned Master, dated 25.4.2014 dismissing the application for condone the delay of 1325 days in representing the suit in C.S.D.No.21596 of 2010.

2. The main contention of the applicant is that previous counsel appeared for the applicant misplaced the bundle and therefore, there is a delay in representing the plaint.

3. The learned Master taking note of the fact that the plaint was returned on 15.6.2010 and represented with huge delay and each day delay has not been explained. The main reason for dismissal of the application is that Court fee has not been paid in time and no extension of time sought for under Section 148 C.P.C. Hence, dismissed the application. Aggrieved by the said order, the instant application has been filed to set aside the said order.

4. Despite notice served and names have been printed in the cause

list, none appeared on the side of the respondents.

5. On a perusal of the plaint, it appears that substantial Court fee has been paid within one month from the date of presentation of the plaint. Except deficit Court fee of Rs.1000/- all other Court fee has been paid. On 9.7.2010 itself, Stamp papers towards Court fee has been purchased to the tune of Rs.2,95, 715/- (Rupees two lakhs ninety five thousand seven hundred and fifteen only). Though extention of time required under Section 148 C.P.C., having regard to the nature of the suit filed for recovery of money based on the documents, mere non filing of application for separate extension of time, substantial rights of the parties cannot be defeated. Therefore, taking note of the fact that several other litigations are also went upto Supreme Court and the delay in representing the plaint is mainly between the party and client. Though delay occures, substantial rights cannot be non suited on technical grounds. Accordingly, the order passed by the learned Master, dated 25.4.2014 is set aside.

Consequently, the application is allowed. No cost.

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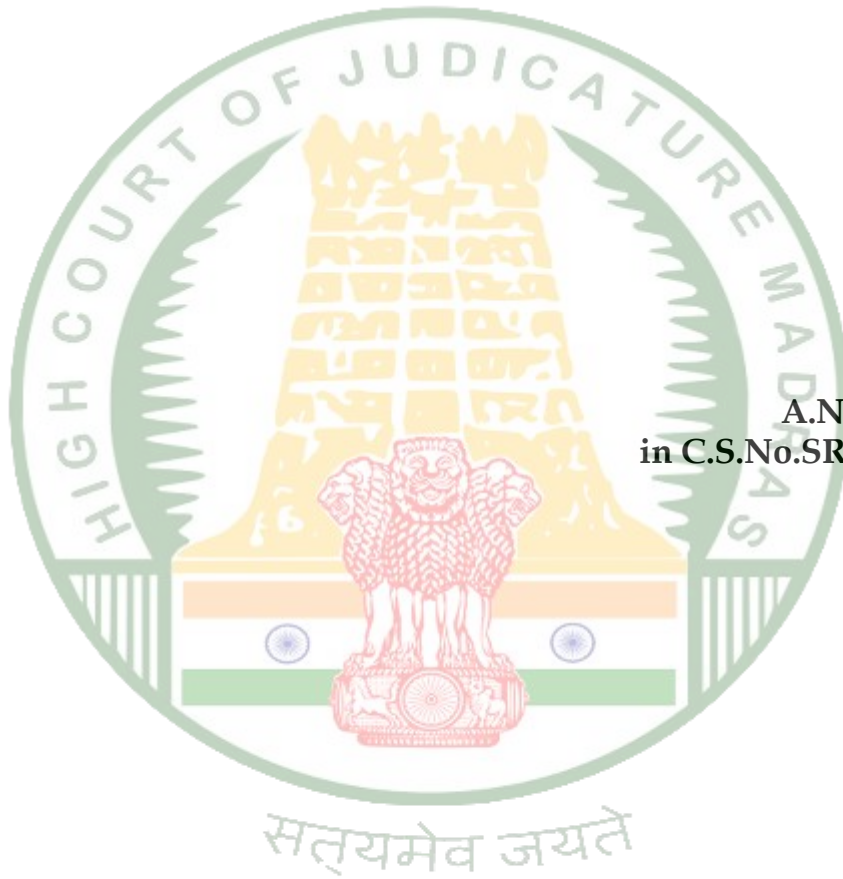
N.SATHISH KUMAR, J.

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Speaking/Non Speaking Order

Index : Yes/No

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