

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.02.2020

CORAM:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

C.R.P.(NPD) No.4078 of 2010

V.Chinnasamy

...Petitioner

..Vs..

1.Tmt.Nirmala Devi Bogaiyan

2.S.Sivanandan

3.Tmt.J.Annapoorani

...Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C, to set aside the judgment and decreetal order dated 23.11.2009 in I.A.No.276 of 2009 in A.S.No.(CFR) 3646 of 2009 on the file of the Principal District Judge, Coimbatore.

For Petitioner : Mr.N.Karthikeyan

For R1&R2 : Mr.J.Ramakrishnan

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O R D E R

This plaintiff is the revision petitioner herein.

2. The revision petitioner herein filed O.S.No.683/1998 on the file of Sub-Court, Coimbatore seeking the relief of specific performance of the suit sale agreement entered into between the parties on 03.02.1993. The defendants 1 & 2 are the original owners. While, the third defendant is the subsequent purchaser as per the plaint.

3. After trial, the suit was dismissed in respect of the main prayer regarding specific performance of the suit sale agreement. However alternative relief of refund of the amount has been ordered. Hence, he preferred appeal in A.S.(CFR)No.3646 of 2009 before the Principal District Court, Coimbatore with a delay of 556 days on the ground that he was suffering for intermittent epilepsy and had treatment with Doctor S.S.Subramanian Casualty Medical Officer, Thrissur and counter was filed.

4. The learned Principal District Judge, Coimbatore dismissed the I.A and refused to condone the delay on the ground that sufficient cause has not been made out and hence, dismissed the petition and hence, this Civil Revision Petition. Notice sent to R3 has been returned as

'refused' and hence, service is held to be sufficient.

5. The learned counsel for the respondents 1&2 would submit that in the absence of any explanation for the huge delay of 50 days, the Trial Court has rightly rejected the petition.

6. The learned counsel for the petitioner has drawn my attention to the medical certificate issued by the Doctor of the District Hospital Thrissur. He had taken treatment for the period from 01.08.2007 to 28.02.2009 and medical certificate issued by the Doctor goes to show that he had taken treatment in the Government District Hospital at Thrissur. Since the petitioner has suffered epilepsy and was in the seizure, this Court is of the considered view that it has to be considered.

7. Accordingly, this Civil Revision Petition is allowed and the order passed in I.A.No.276 of 2009 is set aside on payment of costs of Rs.1,500/- to the counsel appearing for the respondents 1 & 2, within a period of four weeks from the date of receipt of a copy of this order. The trial Court is directed to dispose of the case within a period of 12 weeks from the date of payment of costs.

11.02.2020

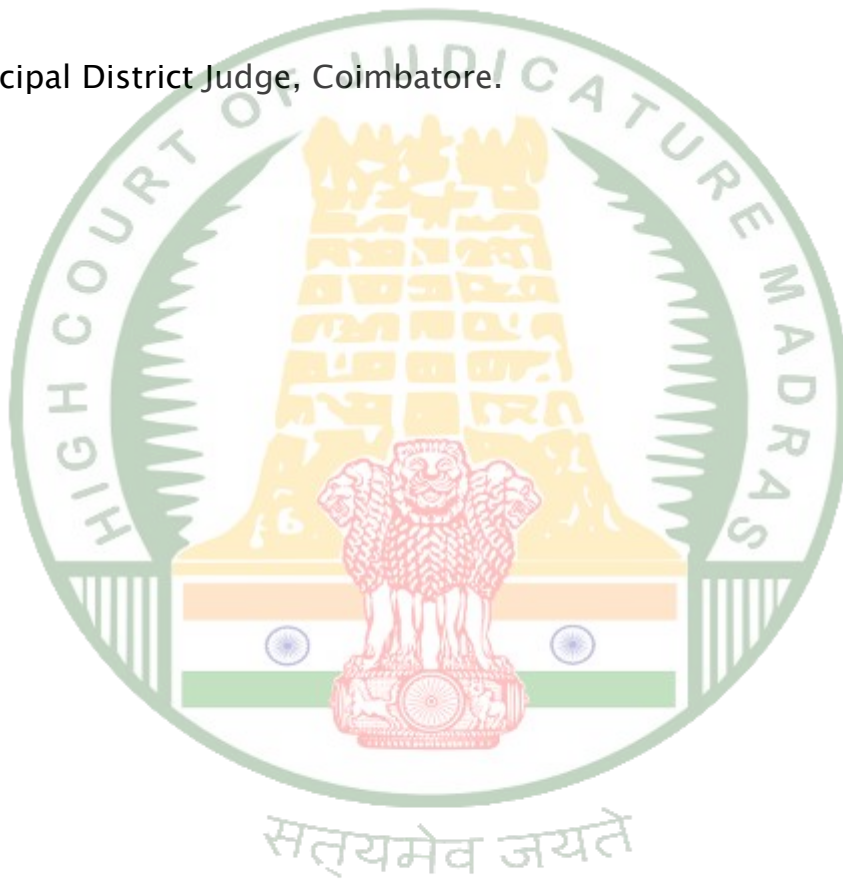
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Index:Yes/No

Speaking Order:Yes/No

To

The Principal District Judge, Coimbatore.



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