

IN THE HIGH COURT OF JUDICATURE AT MADRAS

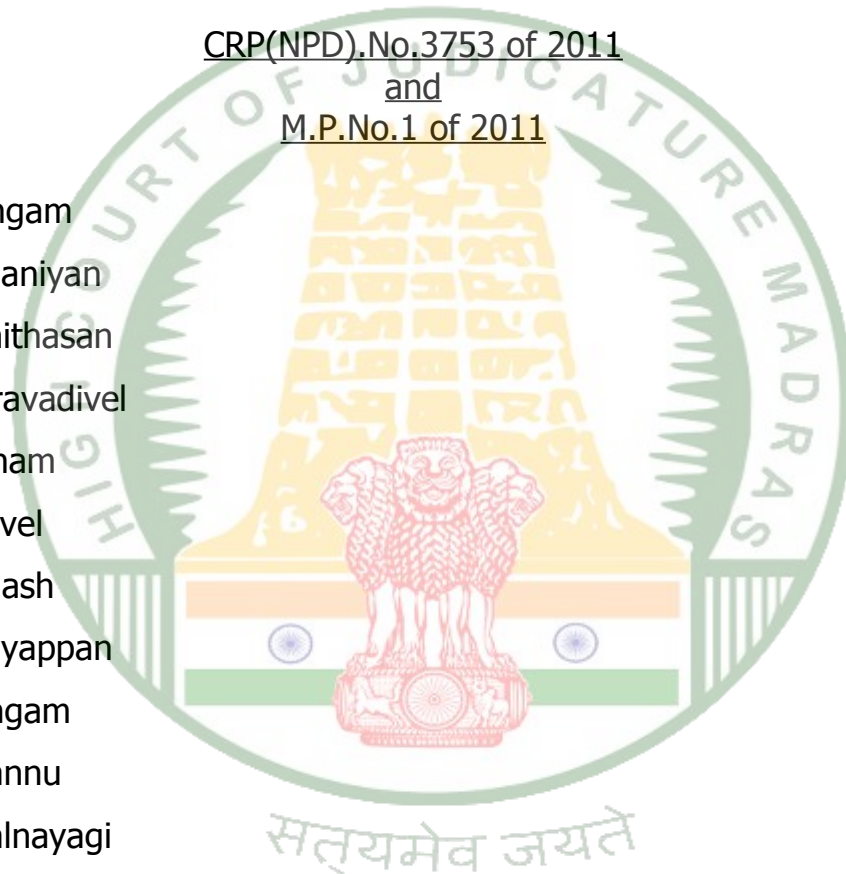
DATED : 21.02.2020

CORAM

THE HONOURABLE MR.JUSTICE RMT.TEEKAA RAMAN

CRP(NPD).No.3753 of 2011
and
M.P.No.1 of 2011

- 1.Ramalingam
- 2.Subramaniyan
- 3.Bharathithasan
- 4.Suntharavadivel
- 5.Santhanam
- 6.Rathinavel
- 7.Ramathash
- 8.Pazhaniyappan
- 9.Vaithilingam
- 10.Iyakkannu
- 11.Thaiyalnayagi
- 12.Anbzhagan
- 13.Renganathan
- 14.Kanagaraj
- 15.Rajendhiran



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...Petitioners/Plaintiffs

Vs.

- 1.District Collector,
Cuddalore,
Cuddalore District.

2.Thasildhar,
Kashpa Vridhachalam,
Vridhachalam Taluk,
Cuddalore District.

3.Selvaraj

...Respondents/Defendants

PRAYER: This Civil Revision Petition has been filed under Section 115 of CPC against the fair and decreetal order dated 09.02.2010 and made in I.A.No.1294 of 2009 in O.S.No.86 of 2002, on the file of the learned II Additional District Munsif, Vridhachalam.

For Petitioners : No appearance

For Respondents

1 & 2 : Mr.S.Jaganathan
Government Advocate

ORDER

This Civil Revision Petition has been filed against the order passed by the learned II Additional District Munsif, Vridhachalam, in I.A.No.1294 of 2009 in O.S.No.86 of 2002, dated 09.02.2010.

2 The plaintiffs in the suit O.S.No.139 of 2009 is the revision petitioners herein.

3 Brief facts of the case are as follows:

(i) The learned Government Advocate appearing for the respondents 1 and 2 would submit that originally the revision petitioners/plaintiffs have filed a suit in O.S.No.139 of 2009 before the learned District Munsif, Neyveli, on 20.12.1999, seeking for the relief of declaration of possessory title of the plaintiffs over the suit property and for the relief of permanent injunction as against the respondents herein/defendants. The plaintiffs have jointly filed the said suit but not in the representative capacity and hence, the suit is not representative suit. When the suit was taken up for trial on 07.11.2005, which was dismissed for default on the same day.

(ii) Thereafter, the fourth plaintiff along with others have filed an application in I.A.No.1294 of 2009, before the learned II Additional District Munsif, Vridhachalam, under Section 5 of the Limitation Act to condone the delay of 1232 days in filing application under Order 9 Rule 9 CPC to restore the said suit and contended that he was suffering from Jaundice and underwent native treatment and thus, he was unable to contact his advocate in time and file necessary applications. The fourth plaintiff has not adduced any oral evidence or documentary evidence to prove that he was suffering from Jaundice and

underwent native treatment as pleaded. No person would be suffering from Jaundice for nearly more than 3 ½ years. As there was a delay of 3½ years, the application was dismissed. As against the same, this Civil Revision Petition has been filed by the revision petitioners before this Court.

4 Heard learned Government Advocate appearing for the respondents 1 & 2. None appeared for the petitioners. Perused the materials placed on record.

5 On a perusal of the records it appears that in the absence of any sufficient cause to condone the delay of 1232 days, the Trial Court has rightly rejected the application in I.A.No.1294 of 2009 though the fourth plaintiff stated that he was suffering from Jaundice from 3½ years. Before the Court below, nothing was examined and no document has been filed. Further more, there are more than fourteen plaintiffs in the suit and hence, in the absence of any positive evidence to show the sufficient cause, the order passed by the Trial Court does not warrant any interference.

6 In the result, the Civil Revision Petition stands dismissed and the order passed by the learned II Additional District Munsif, Vridhachalam, in I.A.No.1294 of 2009 in O.S.No.86 of 2002, dated 09.02.2010, is hereby confirmed. No costs. Consequently, connected miscellaneous petition is closed.

21.02.2020

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Speaking Order:Yes/No

To
The II Additional District Munsif,
Vridhachalam.

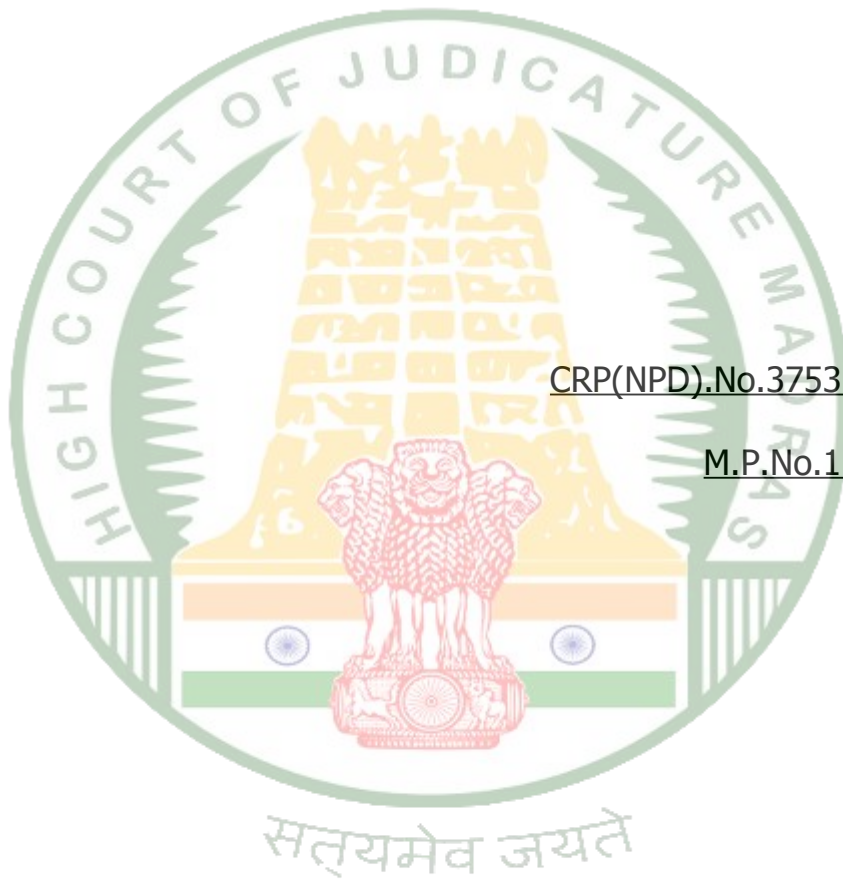


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