

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 30.07.2020

Coram:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

C.R.P.No. 2740 of 2012

R.Thandapani

... Petitioner

Vs.

N.Ezhumalai

... Respondent

Prayer: Civil Revision Petition is filed under Article 227 of Constitution of India against the fair and decreetal order dated 04.04.2012 made in I.A.No.2658 of 2011 in O.S.No.780 of 2009 on the file of the Principal District Munsif, Pondicherry.

For Petitioner : Ms.Sumithra for
I.Abrar Mohamed Abdullah

For Respondent : Mr. Stalin Abhimanyu

ORDER

The respondent filed a suit against the petitioner in O.S.No. 780 of 2009 on the file of the Principal District Munsif, Pondicherry for recovery of money. The said suit was decreed exparte on 25.03.2010. The respondent filed execution petition to realise the decreed amount and notice was also served on the petitioner. After receipt of the said notice, the petitioner has filed an application in I.A.No. 2658 of 2011 under Section 5 of Limitation Act to condone the delay of 378 days in filing petition to set aside the exparte decree under Order IX Rule 13 of CPC. The trial Court had dismissed the said application. Challenging the same, the petitioner has preferred the present Civil Revision Petition.

2. The learned counsel for the petitioner represented that the revision petitioner is not aware of the proceedings in the suit and he came to know about the exparte decree only at the time of receiving notice in execution proceedings initiated by the respondent, hence delay occurred. Therefore the learned counsel sought for opportunity to proceed with the case before the court below.

3. Heard both sides and perused the documents available on record.

4. On a perusal of entire records, it is noted that the respondent herein had filed a Suit in O.S.No. 780 of 2009 against the petitioner before the Principal District Munsif, Pondicherry for recovery of money. In the said suit the petitioner entered appearance through counsel on 09.10.2009 and periodically took time for filing written statement. As per the amended CPC, the petitioner should have file the written statement within 30 days. But, it is seen from the records that the petitioner has not filed his written statement and after affording several opportunities by the trial Court, the exparte decree came to be passed against the petitioner on 23.05.2010. After receipt of notice on the execution proceedings in E.P. No.65 of 2010, the petitioner has filed an application in I.A.No. 2658 of 2011 to condone the delay of 378 days in filing a petition to set aside the exparte decree. In my view, the trial Court has rightly dismissed the said application. However, considering the fact that the said suit is only for recovery of money and decreed in the year 2010, this Court is of the opinion that in order to prove the defence of the petitioner, one more opportunity can be given to the petitioner on condition to deposit the entire decree amount along with interest as on date.

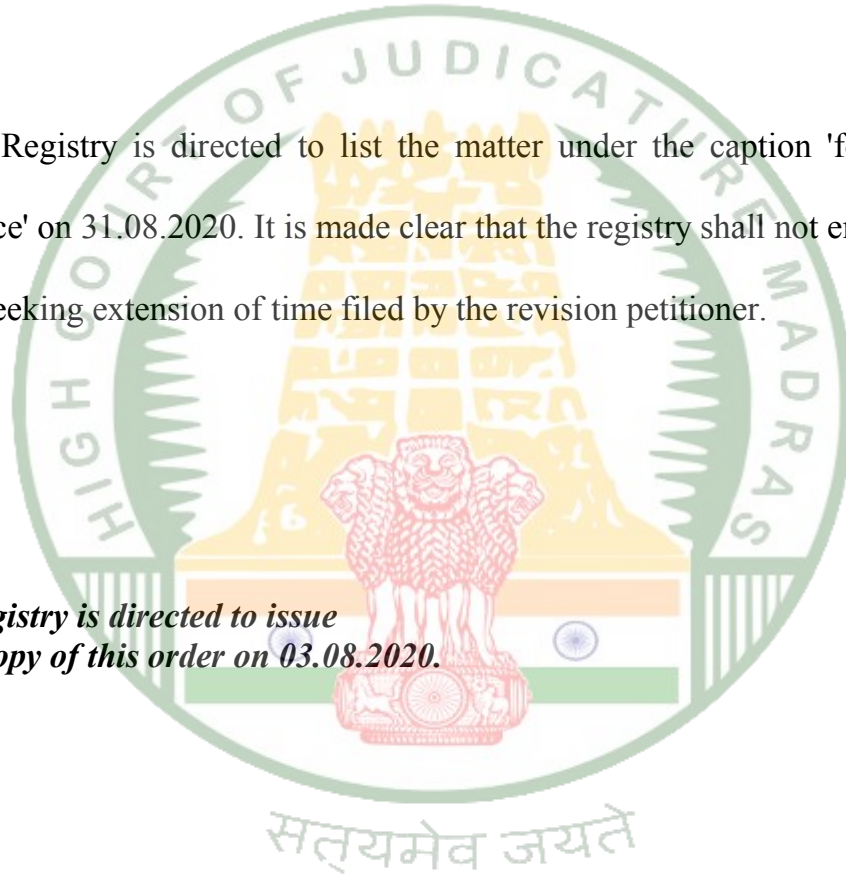
5. Accordingly, the revision petitioner is directed to deposit the entire decreed amount along with interest as on date before this Court to the credit of CRP.No.2740 of 2012 on or before 28.08.2020. Failing which, the present revision petition shall stand automatically dismissed without any further reference of this Court.

6. Registry is directed to list the matter under the caption 'for reporting compliance' on 31.08.2020. It is made clear that the registry shall not entertain any petition seeking extension of time filed by the revision petitioner.

30.07.2020

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***Note: Registry is directed to issue
a copy of this order on 03.08.2020.***

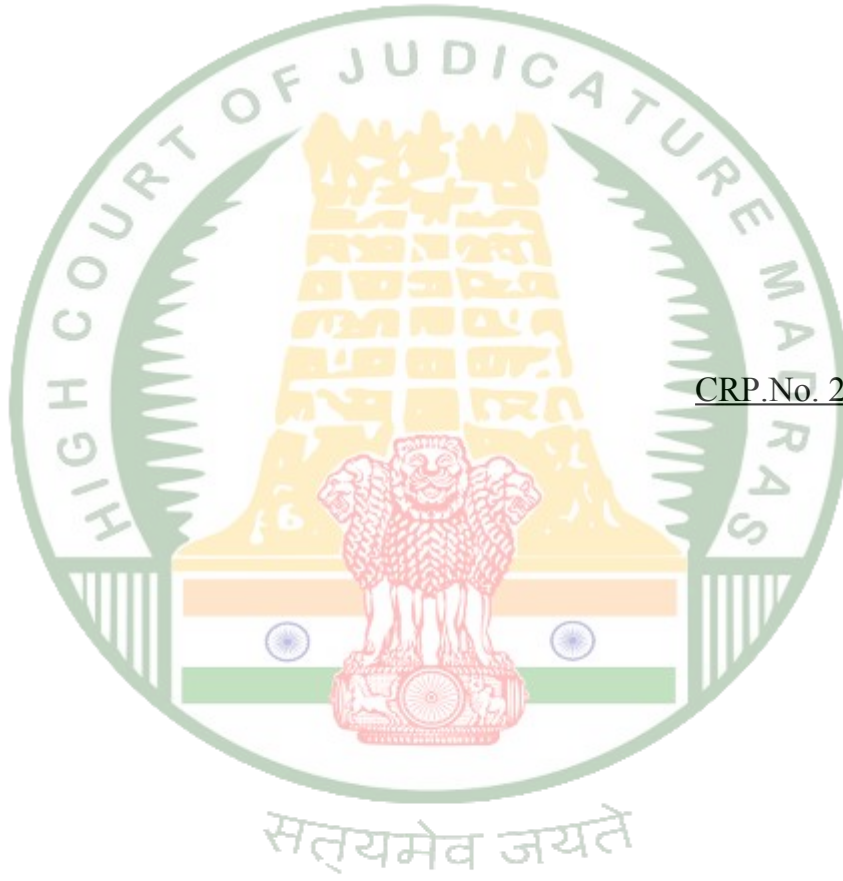


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CRP.No. 2740 of 2012

P.VELMURUGAN, J.

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CRP.No. 2740 of 2012

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