

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.02.2020

CORAM

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

C.R.P. PDs 804 & 806 of 2020

and

C.M.P. 4334 of 2020

Arulmigu Mariamman Thirukoil
S.Ganapathipalayam
Rep. by its Chairman of Board of
Trustees
N.Vijayakumar

.. Petitioner

Versus

The Executive Officer,
H.R. & C.E.,
Arulmigu Subramaniaswami Temple,
Pachamalai,
Gobichettipalayam,
Erode District.

... Respondent

PRAYER in C.R.P. PD 804 OF 2020 : Civil Revision Petition
is filed under Article 227 of Constitution of India, praying to set
aside the fair and decreetal order dated 27.08.2018 made in I.A.
618 of 2016 in O.S. 71 of 2011 on the file of District Munsif
Court, Gobichettipalayam.

PRAYER in C.R.P. PD 806 OF 2020 : Civil Revision Petition is filed under Article 227 of Constitution of India, praying to set aside the fair and decreetal order dated 27.08.2018 made in I.A. 975 of 2018 in I.A. 618 of 2016 in O.S. 71 of 2011 on the file of District Munsif Court, Gobichettipalayam.

For Petitioner : Mr.D.Gopal

COMMON ORDER

These Civil Revision Petitions have been filed against the order allowing the petitioner's application filed under Order 9 Rule 7 of C.P.C. to set aside the exparte order and also allowing the application under Sec.148 and 151 of C.P.C. to extend the time for payment of cost.

2. The petitioner is a plaintiff in the suit. The suit has been filed for permanent injunction restraining the defendant from interfering with the peaceful management of the temple. Earlier, an exparte order has been passed against the defendant, and after five years, the application has been filed to set aside the exparte order. That application has been allowed on payment of

cost of Rs.1500/- to be paid on or before 17.09.2018. Since the amount was not paid within a stipulated time, the present application has been filed under Sec.148 of C.P.C. to extend the time. That application has been allowed on payment of further cost of Rs.1000/- to be paid on or before 26.06.2019. Challenging the same, the present Civil Revision Petitions have been filed.

3. Mr.D.Gopal, learned counsel appearing for petitioner would vehemently contend that, the exparte order has been passed, and to set aside the exparte order, the application has been filed after lapse of five years, and the court below ought not to have allowed the application. That apart, despite allowing the application on payment of cost, the defendant did not come forward to pay the cost, that was mechanically condoned by the court below and allowed the application.

4. I have considered the submissions made by the learned counsel appearing for petitioner and perused the records carefully.

5. On perusal of records, it could be seen that, the court below after considering the materials available on record, has allowed the application filed under Order 9 Rule 7 of C.P.C. on

payment of cost, as there is no limitation prescribed for filing the application. Since the defendant is an Executive Officer of a temple, could not pay the amount in time, without proper approval, another application has been filed for extension of time, that was allowed by the court below on payment of further cost. I have also gone through the materials available on record, I find no illegality or irregularity in the order passed by the court below and I find no merit in this Civil Revision Petition. Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently, the connected Civil Miscellaneous Petition is closed.

26.02.2020

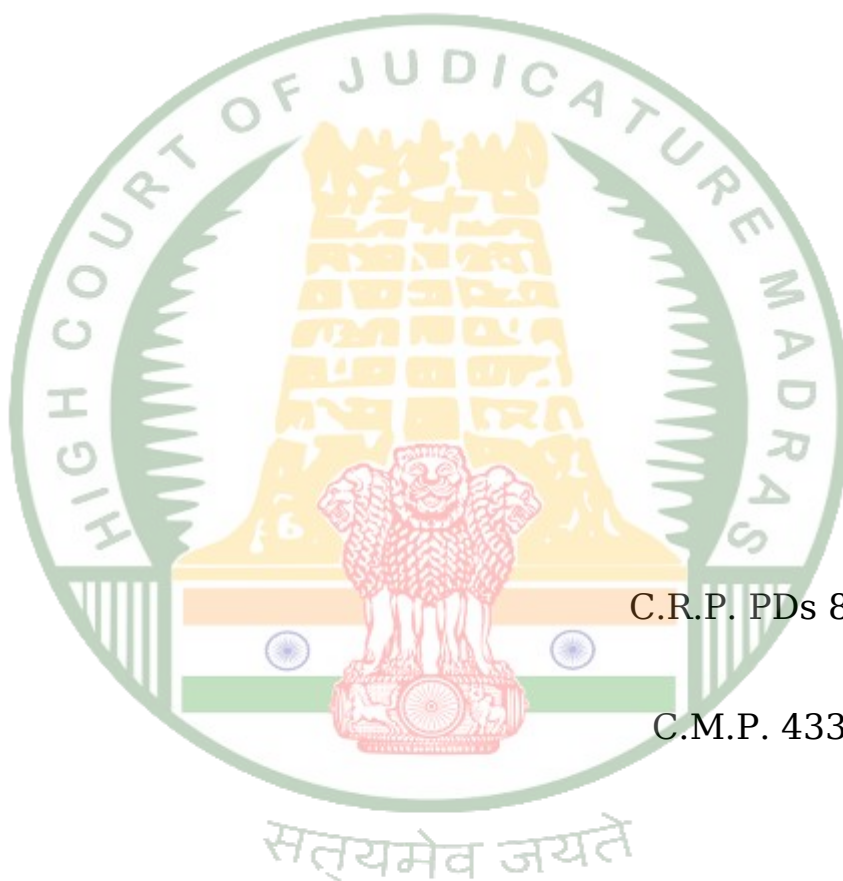
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Internet: Yes/No
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To

District Munsif Court,
Gobichettipalayam.

V.BHARATHIDASAN,J.

rpp



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