

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

CRP (NPD) No.410 of 2018

Krishtunesan .. Petitioner

Vs

G.Rajendiran .. Respondent

Prayer: The Civil Revision petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 05.08.2014 in I.A.No.80 of 2013 in un-numbered CMA/2013 on the Sub Court, Dharmapuri.

For Petitioner : Mr.B.Vijay

For Respondent : Mr.Arun Anbumani

ORDER

This revision has been filed questioning an order of the learned Subordinate Judge, refusing to condone the delay of 125 days in filing an

appeal against an order refusing to set aside an ex parte decree passed against a petitioner in O.S.No.103 of 2006.

2. The reason given for the delay is that the petitioner was suffering from cancer for which he was taking treatment and he had to undergo open heart surgery also. Hence, he was unable to contact his advocate on time. This application was resisted by the respondent denying the claim that he underwent open heart surgery.

3. The learned appellate Judge on a dogmatic approach, dismissed the application on the ground that the petitioner has not proved that he underwent open heart surgery.

4. I am unable to sustain the order of the learned appellate Judge. The delay is not much. It is only 125 days. The petitioner has also produced certain medical records to show that he has underwent Surgery at the relevant time. Hence, I do not think the appellate Court was right in dismissing the application for condonation of delay. The delay of 125 days

is condoned. The appellate Court is directed to number the Civil Miscellaneous Appeal and dispose of the same within a period of six months from today. The parties shall cooperate with the appellate Court in the disposal of the Civil Miscellaneous Appeal. No costs.

09.10.2020

Note: Time bound order

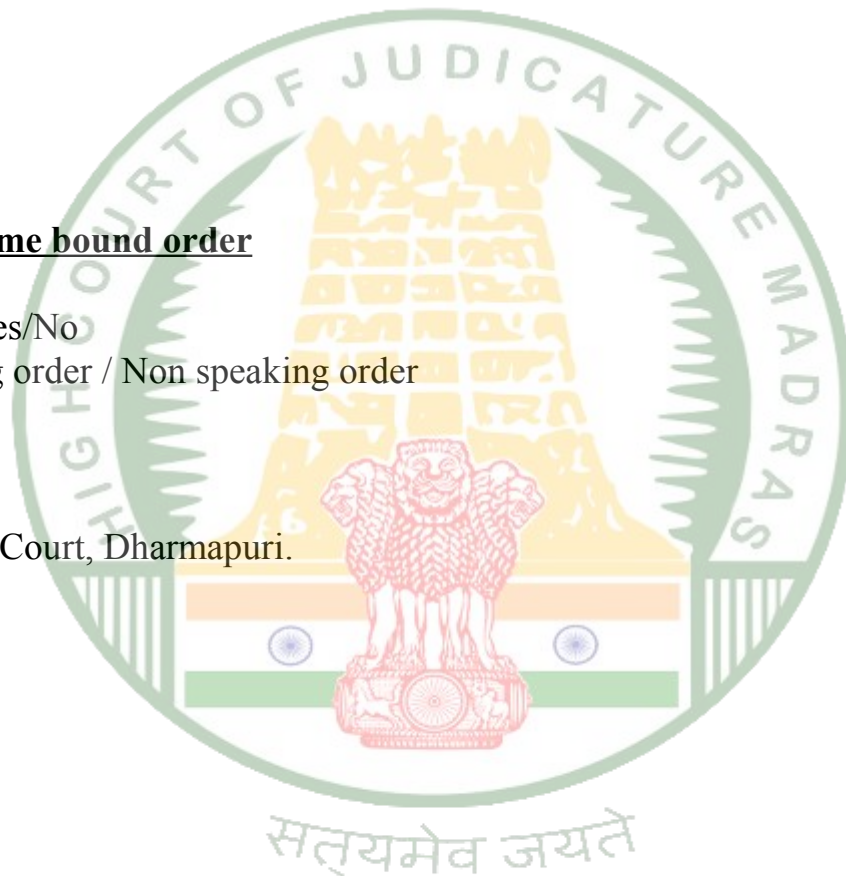
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Index: Yes/No

Speaking order / Non speaking order

To:

The Sub Court, Dharmapuri.



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CRP (NPD) No.410 of 2018 and
CMP No.2632 of 2018

R.SUBRAMANIAN, J.

vum



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09.10.2020

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