

C.M.P.No.24493 of 2019
in
C.R.P.No.2665 of 2007

RMT.TEEKAA RAMAN,J.,

The respondent in the Civil Revision Petition is the present petitioner in C.M.P.

2. For the sake of convenience, the parties are referred as per the ranking in this C.M.P.

3. The respondent in C.M.P. filed O.S.No.83 of 2003 on the file of the Sub-Court, Gobichettipalayam for recovery of money due on the pro-note and the same was decreed ex-parte.

4. It appears that the petitioner/defendant filed I.A.No.384 of 2005 to condone the delay in setting aside the ex-parte decree and the same was allowed. Challenging that order of condoning the delay, the plaintiff in the suit filed the Civil Revision Petition (NPD) Nos.2665 and 2666 of 2007 and the same were dismissed on 11.12.2017, whereby the order of the Lower Court in allowing the application in condoning the delay of 615 days, was modified on condition that the respondent in the Civil Revision Petition shall deposit 50% of the amount mentioned in the Execution Petition before the Trial Court within a period of four weeks from

the date of receipt of a copy of the order, failing which, I.A.No.384 of 2005 shall stand dismissed automatically and the Executing Court shall proceed with the Execution Petition in accordance with law.

5. Now, the defendant in the suit who was the respondent in the Civil Revision Petition, has filed the present C.M.P contending that since no appearance has been made, while, passing the final orders, he was not aware of the modification of the order passed by the Trial Court in condoning the delay, whereby direction of deposit amount was also imposed as a condition precedent to condone the delay, as observed above.

6. The learned counsel for the respondent herein contended that in the Execution Proceedings, he had the knowledge of the same and therefore, C.M.P lacks bonafide.

7. After going through the order passed by this Court on 11.12.2017, it appears that on behalf of the respondent, no appearance has been entered in final order passed in C.R.P. Thus, though C.R.P was dismissed, however pre-condition to condone the delay petition filed before the Trial Court was imposed viz., payment of deposit of 50% decree amount.

8. After going through the records and in the interest of justice, I am inclined to grant two weeks time for deposit of 50% of the amount before the Execution Court to comply with the condition as enumerated in Para No.19 of the order dated 11.12.2017 in C.R.P (NPD) Nos.2665 and 2666 of 2007 failing which, the present C.M.P shall stand automatically dismissed.

03.01.2020

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Note: Issue order copy on 06.01.2020

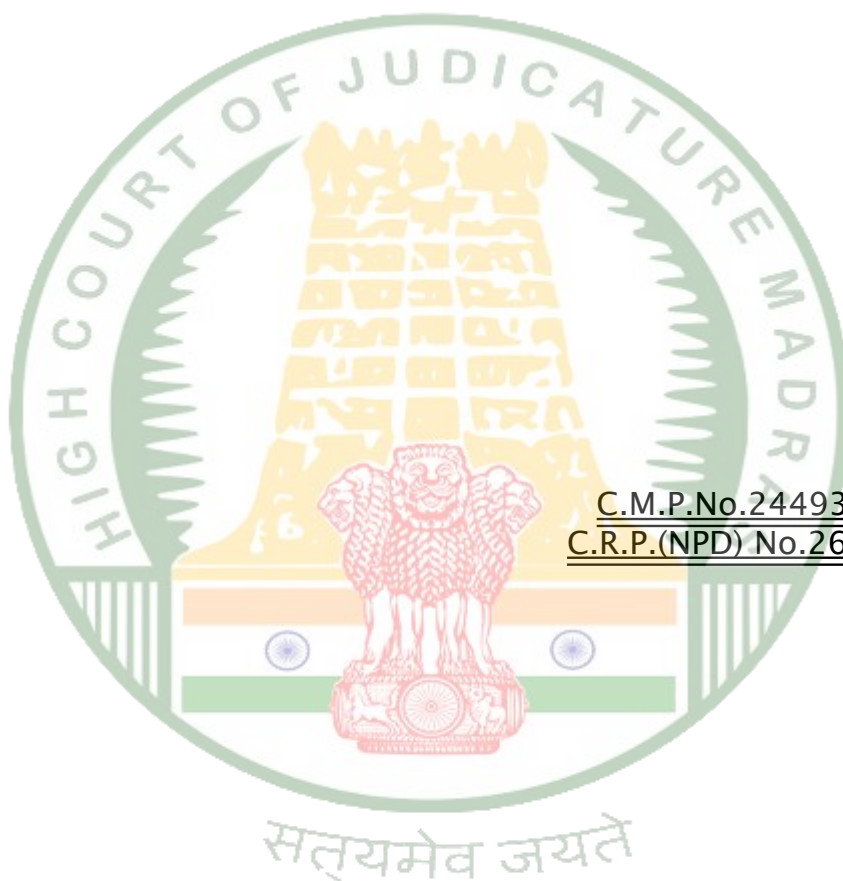


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