

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 17.12.2020

PRONOUNCED ON : 21.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP(NPD)No.70 of 2017

(Through Video Conferencing)

1. Chandramathi
2. Krishnakumari

Petitioners

Vs

1. Vaduvammal
2. Minor Muthuseelan represented by 1st Respondent
3. Tamilarasi
4. Sakunthala

Respondents

Prayer:- This Civil Revision Petition has been filed, under Section 227 of the Constitution of India, against the order and decree, dated 7.9.2016, made in IA.No.239 of 2015 in OS.No.69 of 2010, by the District Munsif Cum Judicial Magistrate, Vedaranyam.

For Petitioner : Mr.K.M.Subramnian

For Respondent : No appearance

ORDER

1. This Civil Revision Petition has been filed, against the order and decree, dated 7.9.2016, made in IA.No.239 of 2015 in OS.No.69 of 2010, by the District Munsif Cum Judicial Magistrate, Vedaranyam.
2. The facts of the case, in a nutshell, are that the Plaintiffs are the Petitioners and the Defendants are the Respondents. The suit was filed for partition and

separate possession. In the suit, the Petitioners have filed the present application to condone the delay of 825 days in filing the application to restore the suit, which was dismissed for default on 12.12.2012. By the impugned order, the said application was dismissed. Hence, this Civil Revision Petition has been filed.

3. This court heard the learned counsel for the Petitioner and also carefully perused the materials placed on record.
4. According to the Petitioners, since 2nd Petitioner was pregnant and at the stage of delivery, the 1st Petitioner had to look after her and hence, they could not appear on 12.12.2002, which resulted in dismissing the suit for default and the said reason was not properly considered by the court below.
5. Before the Trial Court, in the present application the respondents 1 and 2 have not filed any counter and the respondents 3 and 4 did not appear before the court and all the respondents were set exparte. Even before this Court, there is no representation for the Respondents. This is a partition suit. Hence, in the interest of justice and in order to give one more opportunity, the present application may be allowed, however, on payment of cost.
6. In fine, this Civil Revision Petition is allowed. The impugned order, dated 7.9.2016, made in IA.No.239 of 2015 in OS.No.69 of 2010, by the District Munsif Cum Judicial Magistrate, Vedaranyam is set aside and said IA is allowed on payment of cost of Rs.1,000/- (Rupees one thousand only) to the Taluk Level Legal Aid Services Authority, within a period of two weeks from the date of receipt of a copy of this order. Since the suit is of the year 2010,

the Trial Court is directed to dispose of the suit, on merits and in accordance with law, within a period of six months thereafter. No costs.

21.12.2020

Index:Yes/No
Web:Yes/No
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To

1. The District Munsif Cum Judicial Magistrate, Vedaranyam

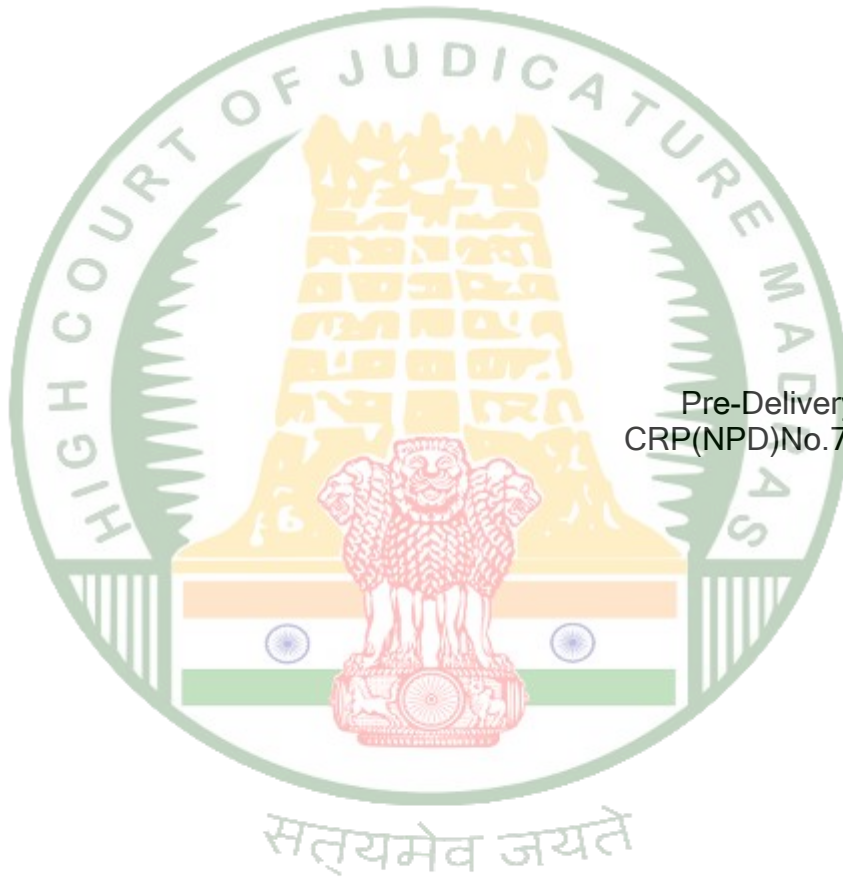


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CRP(NPD)No.70 of 2017

A.A.NAKKIRAN, J.

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Pre-Delivery Order in
CRP(NPD)No.70 of 2017

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21.12.2020