

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.NPD.No.1705 of 2010
and MP.No.1 of 2010

- 1.Kaliya Perumal (died)
- 2.Thenmozhi
- 3.K.Ganesan
- 4.A.K.Ramakrishnan
- 5.Kalaiselvi
- 6.Geetha

(petitioners 2 to 6 brought on record as
LR's of the deceased sole petitioner
viz Kaliya Perumal vide court order dated
17.02.2021 in CMP.No.376 & 379 of 2020
in CRP.No.1705 of 2010)

..Petitioners

Vs.

- 1.Anjalai Ammal (died)
- 2.Rajendran

(2nd respondent brought on record as
LR's of the deceased sole respondent
viz Anjalai Ammal vide court order dated
15.03.2021 in CMP.Nos.5252 to 5254 of 2021
in CRP.No.1705 of 2010)

..Respondents

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the order and decretal order dated 25.06.2009 made in IA.No.36 of 2009 in AS.No.35 of 2004 on the file of Subordinate Court at Chidambaram.

For Petitioners : Mr.Srinath Sridevan

For Respondents

For R2 : Mr.V.Thillaisamy
R1 : died (steps taken)

ORDER

This civil revision petition is filed against the order and decretal order dated 25.06.2009 made in IA.No.36 of 2009 in AS.No.35 of 2004 on the file of Subordinate Court at Chidambaram thereby dismissing the petition to condone the delay of 1600 days in filing the petition to restore the appeal suit.

2. The petitioner is the plaintiff and the respondent is the defendant in the suit filed by the petitioner herein for recovery of possession and injunction in respect of the suit property. The suit was dismissed by the judgment and decree dated 01.12.2001. Aggrieved by the same, the petitioner preferred appeal suit in AS.No.35 of 2004. When the appeal suit was posted for arguments, neither the petitioner nor the counsel appeared before the appellate court and as such appeal was dismissed for default on 24.08.2004. Thereafter the petitioner filed petition to restore the appeal suit on the ground that the petitioner was bedridden and as such he was unable to look after his case. He is solely depending on his son one, Mr.Ganesan who is looking after and conducting the suit on his behalf. Thereafter there was some misunderstanding between them and as such he failed to look after the case pending before the appellate court. Thereafter, he came to understand that the appeal suit itself was

dismissed for default. Therefore, there was a delay of 1600 days in filing the petition to restore the appeal suit.

3. The petitioner was examined as PW1 in the condone delay petition and on perusal of his cross examination revealed that his another son one, Mr.Ramakrishnan is also an advocate who is practising in the same court campus. He further submitted that he never fell ill and he never went to his daughter's house and the suit property is very much in his possession and enjoyment. Therefore, he filed false affidavit with some other reason for the delay in filing the petition to restore the appeal suit. Therefore, the first appellate court rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
lok

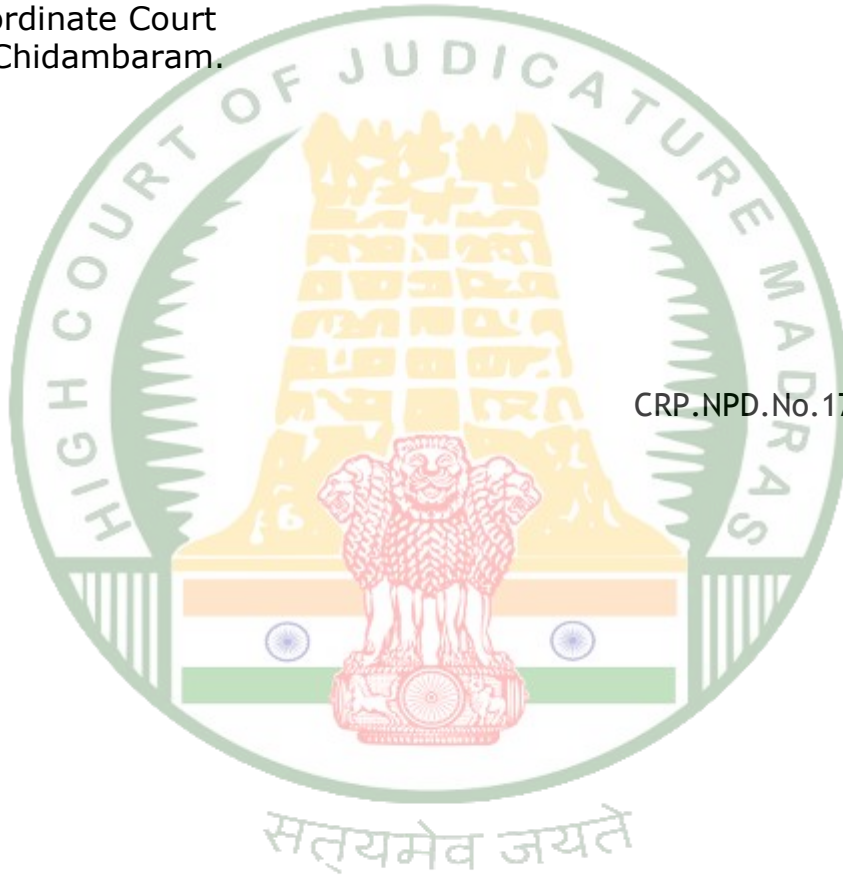
15.03.2021
(2/2)

G.K.ILANTHIRAIYAN,J.

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To

The Subordinate Court
at Chidambaram.



CRP.NPD.No.1705 of 2010

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