

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.03.2021

C O R A M

THE HON'BLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

C.R.P.(PD) No.592 of 2021
and
C.M.P. No.5113 of 2021

D. Mani,

... Petitioner

Vs.

1. P. Yuvarajan,
2. D. Shanmugam,
3. P. Gandeepan,
4. P. Murugan,
5. The Tahsildar,
6. State rep. by its
District Collector,
Kanchipuram District, Kanchipuram

... Respondents

Prayer: This Civil Revision Petition filed under Section 115 of CPC against the order and decree passed in I.A. No.01 of 2021 in A.S. Sr. No.974 of 2020 dated 03.02.2021 on the file of the Sub-Court, Kanchipuram.

For Petitioner

... Mr. S.Sivakumar

For Respondents

.... No Appearance

ORDER

This Civil Revision Petition under Section 115 of CPC to direct the lower Court to number the appeal filed by the petitioner in I.A.No.01

of 2021 in A.S.Sr.No.974 of 2020 dated 03.02.2021 on the file of the Sub-Court, Kanchipuram.

2. According to the petitioner, the 1st respondent herein is the plaintiff in the suit in O.S.No.45 of 2014 under Order VII Rules 1 and 2 and Section 26 of C.P.C, which has been filed against the petitioner, 2nd and 3rd respondents herein seeking for granting declaration that the plaintiff is absolute owner of the suit property with recovery of possession from the 1 to 4 defendants in default, the Hon'ble Court recover the same from the defendant's through court of law and to declare that the 5th defendant issued a patta in favour of 1 and 2 defendants and 3 and 4 defendant's father under patta Nos.253, 566, 574 is null and void and not binding upon the plaintiff's title and for cost. The Trial Court has allowed the aforesaid suit by Judgment and decree dated 9.12.2019. The first defendant/petitioner herein had filed an appeal in A.S. Sr.No.974 of 2020 before the Sub-Court, Kanchipuram and meanwhile, Execution Petition was also filed by the 1st respondent/decree holder on 3.9.2020. Meanwhile, the said appeal grounds was returned for compliance granting one month time for

representation. ie. to be represented on or before 28.03.2020. The petitioner is not able to represent the same, as the appeal papers were taken by counsel's friend one Renuka and kept the same in her locker and left the native place at Madurai to attend the family function. At the same time, unfortunately, due to the declaration of the Nation-wide lock down, the papers which were kept in the court premises, could not be procured as the Court has not allowed anyone to enter the premises for taking papers from the lockers and the same was able to be taken out from the locker only on 17.9.2020. Hence, he could represent the same with the delay of 285 days. The appeal papers could not be represented earlier because it was not wilful or wanton act but only due to the Nationwide lock down. Hence, he prays that the delay of 285 days may be condoned in representing the appeal papers in I.A. No.1 of 2021 in A.S.Sr.No.974 of 2020.

3. The learned counsel for the petitioner further submitted that as per the Honble Apex Court order dated 03.08.2021, in Suo Motu Writ Petition (Civil) No.3 of 2020 in RE. COGNIZANCE FOR EXTESION OF LIMITATION wherein directions were issued that during the pandemic

period all the delay should be condoned by all the Court in throughout India and the Court below ought to have condoned the delay in representation of the delay of 285 days in I.A.No.01 of 2021 in A.S.Sr.No.974 of 2020.

4. In view of the Apex Court's order during the pandemic period with regard to condonation of delay as submitted by the learned counsel for the petitioner, the Court below is directed to number the said A.S.Sr.No.974 of 2020, if it is otherwise in order and proceed further in accordance with law

5. In the result, the Civil Revision petition are is disposed of with the above direction. Consequently, connected miscellaneous petition is closed if any. There shall be no order as to costs.

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19.03.2021

Lbm

Index: Yes/No.

Speaking/Non-Speaking order

Internet: Yes/No.

To:
The Sub-Court, Kanchipuram.

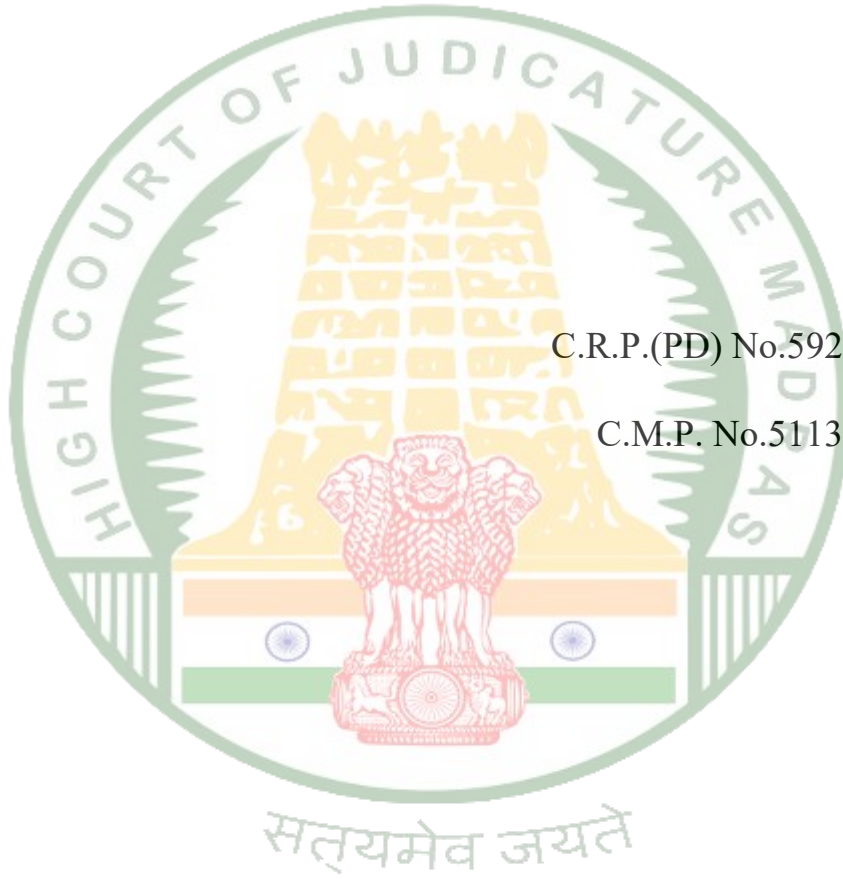


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C.R.P.(NPD) No.592 of 2021

V.BHAVANI SUBBAROYAN, J.,

lbm



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and
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