

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM :

THE HON'BLE MR.JUSTICE **C.V. KARTHIKEYAN**

C.R.P.(NPD) No.561 of 2021

and

C.M.P.No.4779 of 2021

K. Venkatachalam

.. Petitioner

Vs.

R. Periyasamy

.. Respondent

Prayer: Revision Petition is filed under section 115 of the Code of Civil Procedure to set aside the order in I.A.No.2 of 2019 in O.S.No.250 of 2007 dated 14.02.2020 on the file of Principal Subordinate Judge at Namakkal.

For Petitioner : Mr. S. Varanesh

For Respondent : Mr. T.L. Thirumalaisamy

ORDER

The defendant in O.S.No.250 of 2007 is the Revision Petitioner herein. In a suit for recovery of money based on a Promissory Note, the Revision petitioner filed a written statement. Issues were framed. The plaintiff had examined himself as P.W.1. The promissory note was marked as Ex.A1. The report of the Fingerprint Expert was marked as Ex.C1. The suit was adjourned for cross examination. On

the side of the defendant, no one came forward to cross examine P.W.1. The defendant was therefore set exparte. Thereafter, an ex parte judgment was passed on 20.02.2015. Subsequently, an execution petition also came to be filed. Notice was directed in the said execution petition. On behalf of the revision petitioner, an Advocate entered appearance on 15.10.2015. Application to set aside the ex parte decree along with application to condone the delay of 1451 days was filed only in the year 2019. The Principal Subordinate Judge, Namakkal, before whom the application to condone the delay of 1451 days came up for consideration, dismissed the Application by order dated 14.2.2020 stating that no satisfactory reasons had been given to condone the said huge delay.

2. The learned counsel for the revision petitioner stated that the order itself is a non-speaking order and that the contentions in the Affidavit have not been considered. However, the learned Subordinate Judge relied on Ex.A1 and Ex.C1 which are the promissory note and a report of the Fingerprint Expert and also held that the delay between 2015 and 2019 had not been explained except for stating that the revision petitioner suffered from ill health. In the affidavit, it was

stated that when learned counsel were appointed, the petitioner was of the bona fide impression that the matter would be looked after by them. However, in order to substantiate these aspects, the petitioner did not graze the witness box and did not subject himself for cross examination.

3. The learned Subordinate Judge had no other alternative but to dismiss the application. The order impugned does not require any interference at the hands of this Court. No additional documents have been filed giving reasons for the delay or to substantiate the reason for such delay. The Revision Petition is therefore dismissed. Consequently, connected Miscellaneous Petition is closed. There will be no order as to costs.

13.07.2021

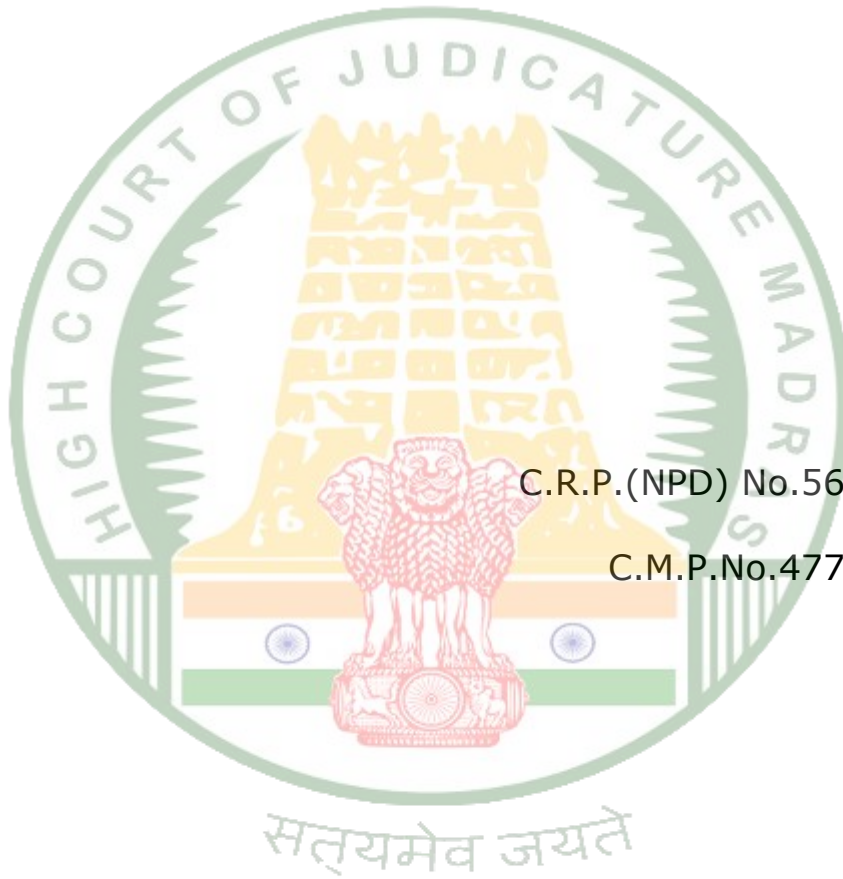
Index : Yes/No
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To
The Principal Subordinate Judge at Namakkal.

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C.V. KARTHIKEYAN, J.

mrn



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