

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM

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

CRP.NPD.No.3612 of 2015 and
MP.No.1 of 2015

1.Jayabalan
2.Thilaga

..Petitioners

Vs.

Kanchana

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the order and decretal order dated 13.08.2013 in IA.No.71 of 2013 in OS.No.129 of 2009 on the file of the learned District Munsif Court, Ranipet, Vellore District.

For Petitioners : Mr.R.Vasudevan

For Respondent : Mr.J.Kamaraj

ORDER

This Civil Revision Petition is filed against the order and decretal order dated 13.08.2013 in IA.No.71 of 2013 in OS.No.129 of 2009 on the file of the learned District Munsif Court, Ranipet, Vellore District thereby dismissing the petition to condone the

delay of 830 days in filing the setting aside the exparte decree petition.

2. The petitioners are the defendants in the suit filed by the respondent for recovery of money. The petitioners engaged their counsel and also filed their written statement. PW1 was in box and the matter was listed for cross examination of PW1. Thereafter, the petitioners did not cross examine PW1 and the matter was posted for arguments. At the time of arguments, the petitioners' counsel as well as the respondent's counsel argued the suit and the suit was decreed in favour of the respondent herein. Thereafter the petitioners come forward with the petition to set aside the exparte decree, as if they were set exparte in the suit with the delay of 830 days in filing the said petition. The court below rightly concluded that the judgment and decree passed by the trial court is not an exparte decree. The suit was decreed on merits. Therefore, the petition to set aside the exparte decree itself is not maintainable since no exparte decree was passed as against the petitioners herein.

3. On perusal of the judgment passed by the court below, the petitioners did not cross examine PW1 and thereafter their counsel appeared for arguments and argued the case. Only after

hearing both sides, the court below decreed the suit in favour of the respondent herein. Therefore, this Court finds no irregularity or infirmity 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.

19.02.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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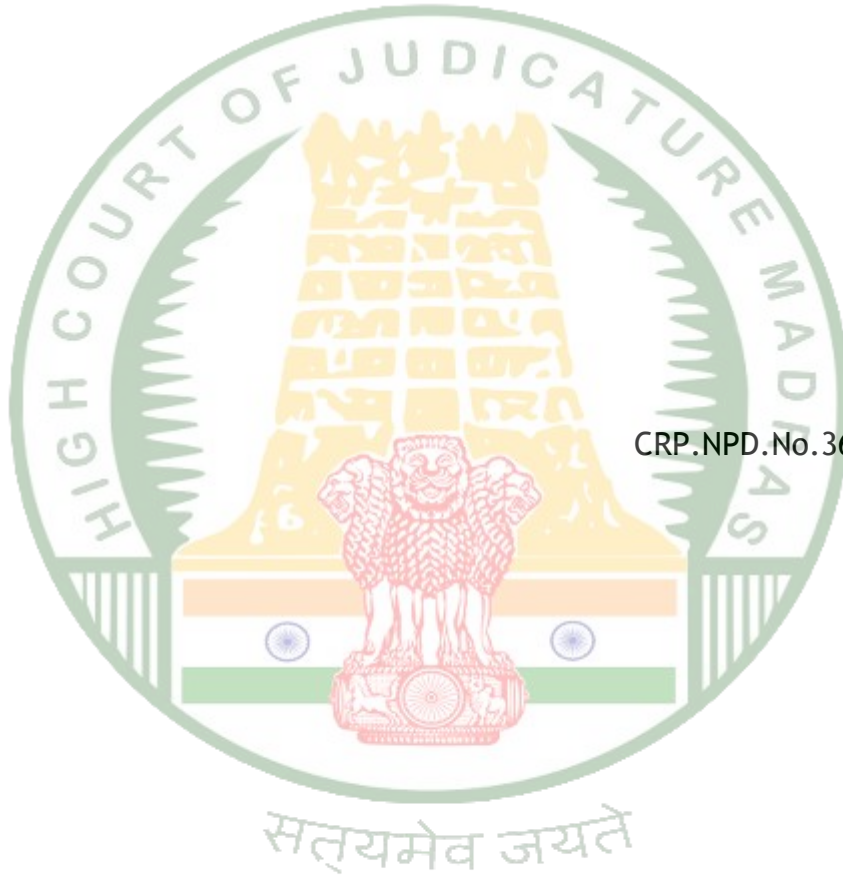
The District Munsif Court,
Ranipet, Vellore District.



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G.K.ILANTHIRAIYAN,J.

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