

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.03.2021

CORAM

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

CRP.NPD.No.1464 of 2016

Kandasamy(died)

1.Vengaiammal

2.K.Narayanan

3.K.Sivagnanam

4.K.Ramalingam

..Petitioners

Vs.

Sundaram

..Respondent

PRAYER:

The Civil Revision Petition is filed under Section 115 of CPC against the fair and decretal order dated 28.06.2013 made in IA.No.313 of 2012 in OS.No.94 of 1996.

For Petitioners : No Appearance

For Respondent : Mr.P.Mani

ORDER

This civil revision petition is filed against the fair and decretal order dated 28.06.2013 made in IA.No.313 of 2012 in OS.No.94 of 1996 thereby dismissing the petition to condone the delay in filing the petition to restore the suit.

2. The petitioners are the plaintiffs. The respondent is the defendant. The petitioners filed suit for declaration and injunction in respect of the suit property. Originally, the suit was filed in the year 1984 and thereafter transferred to the Additional District Munsif Court, Chengam in the year 1996 and renumbered as OS.No.94 of 1996. While being so, the petitioners or their counsel failed to appear before the trial court when the matter was posted for trial on 23.09.2003. Therefore, the suit was dismissed for default. The petitioners filed petition to restore the suit with delay of 130 days on 19.02.2004 and the same was returned for some corrections on several occasions. Finally it was re-presented in the year 2012 and numbered as IA.No.313 of 2012. The petitioners did not file any petition to condone the delay of re-presentation. However, it was numbered and on perusal of the affidavit filed in support of condone delay petition, the first petitioner fell ill and suffered with jaundice. There is absolutely no other reasons stated by the petitioners in respect of other petitioners for non appearing before the trial court when the matter was posted for trial.

3. The suit is of the year 1984 and subsequently transferred to the Additional District Munsif Court, Chengam in the year

1996. Therefore, already 36 years lapsed. Even then, in the year 2003, after 17 years from the date of filing the suit, the petitioners did not appear before the trial court for trial. It shows that they have no interest to pursue the suit further. Even today, the counsel has not appeared before this Court. It shows that the petitioners are not interested to pursue the suit further. That apart, the court below rightly dismissed the petition for the reason that no sufficient reasons stated in the affidavit filed in support of the condone delay petition. As such this Court finds no irregularity or infirmity in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. No order as to costs.

19.03.2021

Speaking/Non-speaking order
Index : Yes/No
Internet : Yes/No
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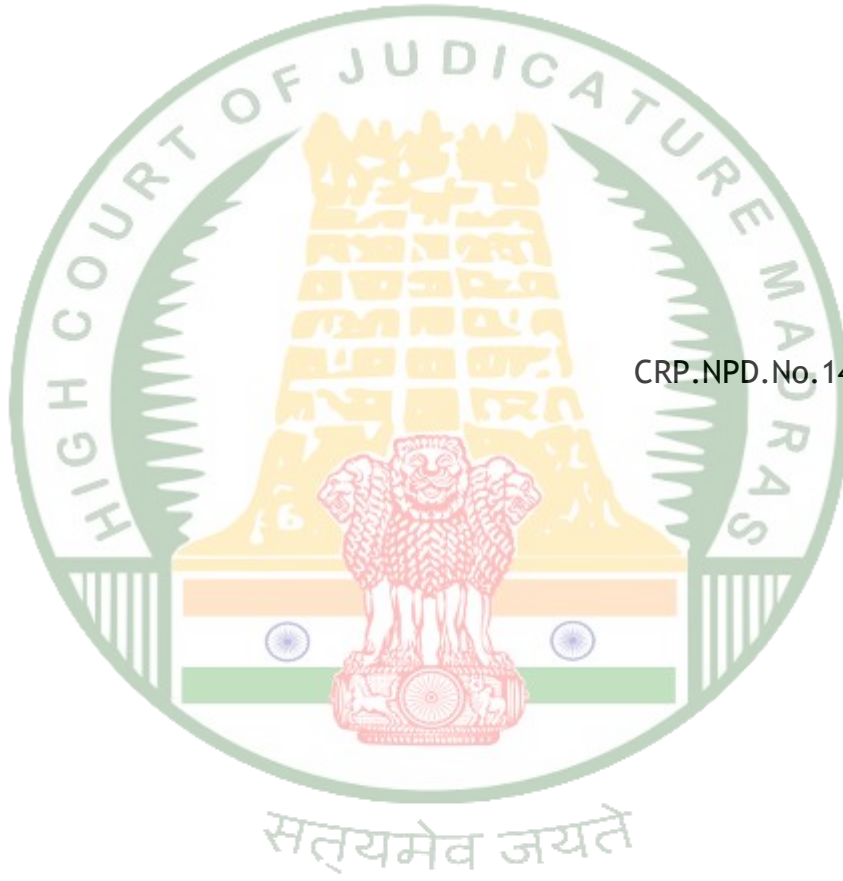
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G.K.ILANTHIRAIYAN,J.

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To

The Additional District Munsif,
Chengam



CRP.NPD.No.1464 of 2016

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