

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2021

CORAM:

THE HONOURABLE Mr. JUSTICE G.K. ILANTHIRAIYAN

C.R.P.NPD.No.1911 of 2016

Anjalai

... Appellant

-Vs-

Muniammal

... Respondent

Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, allowing the Civil Revision Petition and condoning the delay of 152 days in filing the application for setting aside the ex-parte decree, in I.A.No.788 of 2014 dated 12.06.2015 on the file of the D.MC. Sankarapuram.

For Appellant : Mr.H.Kishore

For Respondent : Mr.R.Ganeshkumar

ORDER

The present Civil Revision Petition is filed as against the fair and decreetal order passed in I.A.No.788/2014 on the file of the District Munsif Court, Sankarapuram, thereby dismissing the petition to condone the delay in filing the petition for setting aside the exparte decree.

2. The petitioner is the 4th defendant in the suit filed by the respondent for declaration and injunction in respect of the suit schedule property. While the suit was pending, the petitioner along with the other defendants engaged counsels and also filed written statement. Thereafter, they failed to appear before the Trial Court and as such they were set exparte. In fact, they filed a petition to set aside the order and the same was rejected for some allegations. Thereafter, the petitioner did not proceed the said application.

3. On a perusal of the affidavit filed in support of the petition to condone the delay, it is seen that the petitioner was suffering from Jaundice and she did not contact her counsel and set exparte. There are totally 5 defendants, in which the petitioner is arrayed as 4th defendant. The suit was dismissed as against the first defendant and the Third defendant who were set exparte. Defendants 2,4 & 5 are concerned, on 4th January the petitioner herein filed a petition to set aside the exparte decree. The Court below dismissed the condone delay petition on the ground that the petitioner failed

to state sufficient cause for the delay in filing the petition to set aside the set exparte.

4. Considering the above, the petitioner is given one more opportunity to defend the suit filed by the respondent herein.

5. In view of the same, the order passed in I.A.No.788 of 2014 dated 12.06.2015 is set aside and this Civil Revision Petition is allowed on cost on payment of Rs.2,000/- from the date of receipt of a copy of this order, failing which the order stands automatically dismissed. The trial Court is directed to dispose of the Suit within a period of 6 months from the date of receipt of a copy of this order. No costs.

02.03.2021

Index: Yes / No

Speaking order / Non speaking order

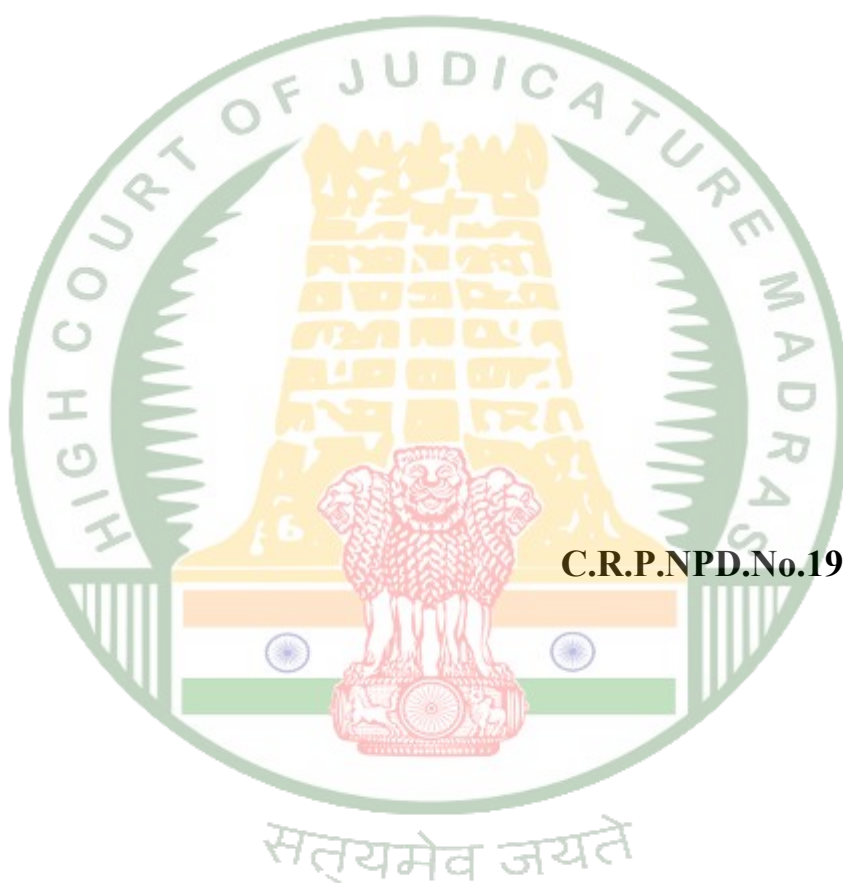
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To

The D.MC. Sankarapuram

G.K. ILANTHIRAIYAN, J.

kmm



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