

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2021

CORAM

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

CRP.PD.No.2471 of 2016

1. Bakkiyalakshmi
2. Minor Kanagavalli
Rep.by Natural Guardian Mother ... Petitioners

Vs.

Sumathi ... Respondent

PRAYER: The Civil Revision Petition is filed under Article 227 of the Constitution of India, praying to set aside the fair and decretal order of the learned Principal District Munsif Court, Ulunthurpet, Villupuram District in I.A.No.1400 of 2015 in O.S.No.167 of 2011 dated 21.03.2016.

For Petitioners : Mr.C.Venkatesan

For Respondent : Notice Served (No Appearance)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.1400 of 2015 in O.S.No.167 of 2011 dated

21.03.2016 on the file of the Principal District Munsif Court, Ulunthurpet, Villupuram District, thereby, dismissing the petition to condone the delay in filing the application to set aside the ex-parte decree.

2. The petitioners are the defendants in the suit filed by the respondent herein for partition. After filing the written statement, the petitioners did not appear before the trial Court for cross examination of P.W.1. Though several opportunities were given to the petitioners for cross examination, they failed to avail the opportunity and were continuously absent before the trial Court. Therefore, they were set ex-parte and the ex-parte decree was passed by the judgment and decree dated 11.07.2014. Therefore, the petitioners filed a petition to condone the delay of 359 days in filing the application to set aside the ex-parte decree.

3. On a perusal of the affidavit filed in support of the condone delay petition, it is seen that the petitioners stated that one of the petitioners had gone out from their native place for his employment. Therefore, he was unable to contact his counsel and he did not receive the letter returned by his counsel. He also deposed before the Court below, after the ex-parte

decree and there was a Panchayat. The petitioners did not accept the decision taken by the Panchayat and thereafter, they filed a petition to set aside the ex-parte decree. Therefore, immediately after the decree passed in the suit, the petitioners had knowledge about the same and did not file a petition to set aside the ex-parte decree. Further, the petitioners also failed to state sufficient reasons for the delay of 359 days. Therefore, the trial Court rightly dismissed the petition. That apart, 1/3rd share was allowed to the petitioners as well as the respondent herein. Therefore, this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

16.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

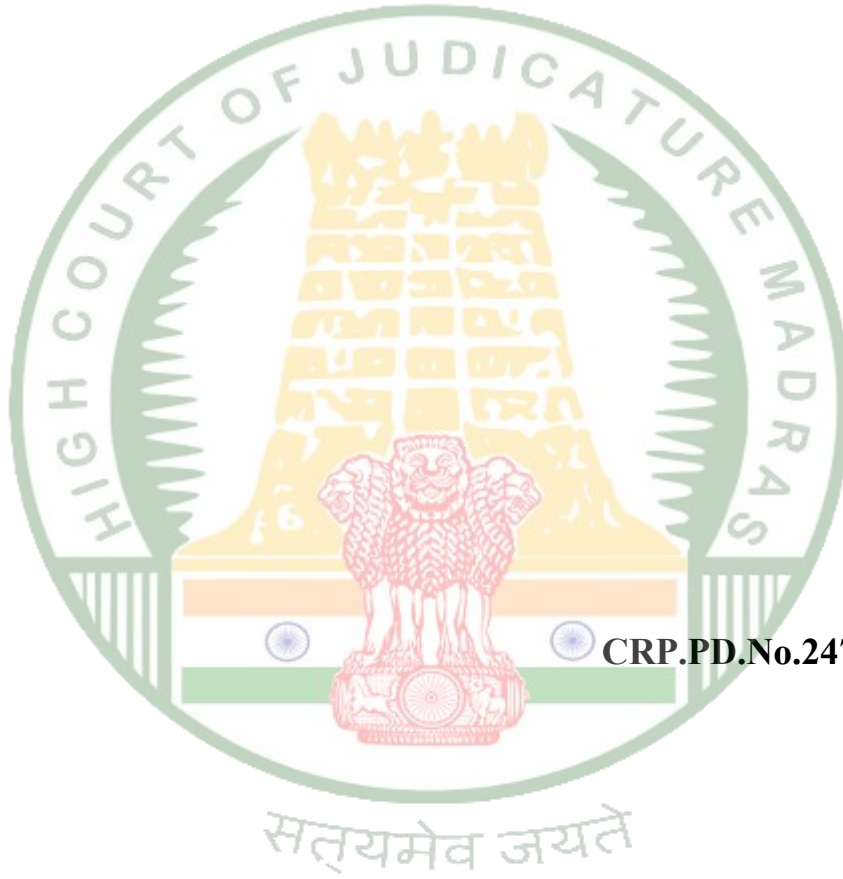
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To

The Principal District Munsif,
Ulunthurpet,
Villupuram District.

G.K.ILANTHIRAIYAN,J.

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