

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(N.P.D).No.2543 of 2016
and C.M.P.No.13057 of 2016

S.Muthuraja

...Petitioner

Vs

R.Vanitha

...Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India as against the fair and decretal order passed in I.A.No.409 of 2015 in O.S.No.139 of 2013 dated 16.10.2015 by the Subordinate Judge, Pollachi.

For Petitioner : Mr.NA.Malai Saravanan

For Respondent : Mr.V.Nicholas

ORDER

The present Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.409 of 2015 in O.S.No.139 of 2013 dated 16.10.2015 by the Subordinate Judge, Pollachi, thereby dismissed the petition to condone the delay of 431 days in filing the petition to set aside

the exparte decree.

2.The petitioner is the defendant. The respondent is the plaintiff.

The respondent filed the suit for recovery of possession as well as claiming arrears of rent after deducting the advance amount paid by the petitioner herein. After receipt of the notice from the suit, the respondent failed to appear before the trial Court. Therefore, he was set exparte by the Judgment and decree dated 21.11.2013. Thereafter, the respondent filed the execution petition for execution of the decree dated 21.11.2013. On receipt of the notice from the execution proceedings, the petitioner engaged counsel and appeared before the execution Court on 29.04.2014. Thereafter, the petitioner failed to file any petition to set aside the exparte order. After the period of 309 days from the date of his appearance before the execution Court he filed a petition to set aside the exparte decree with a delay petition.

3.On perusal of the affidavit filed in support of the condone delay petition would reveal that the petitioner did not even whisper about the appearance before the execution court and also no sufficient reason was stated for each and every day delay. That apart now, the possession of the

petition premises was taken by the respondent herein. In so far as the arrears of rent, the execution petition is pending. Therefore, the Court below has rightly dismissed the petition and this Court finds no infirmity or irregularity in the order dated 16.10.2015 passed in I.A.No.409 of 2015 in O.S.No.139 of 2013 on the file of the Subordinate Judge, Pollachi.

4.Accordingly, this Civil Revision Petition stands dismissed. No costs. Consequently connected miscellaneous petition is closed.

11.02.2021

Index: Yes/No
Internet: Yes/No
Speaking Order: Yes/No
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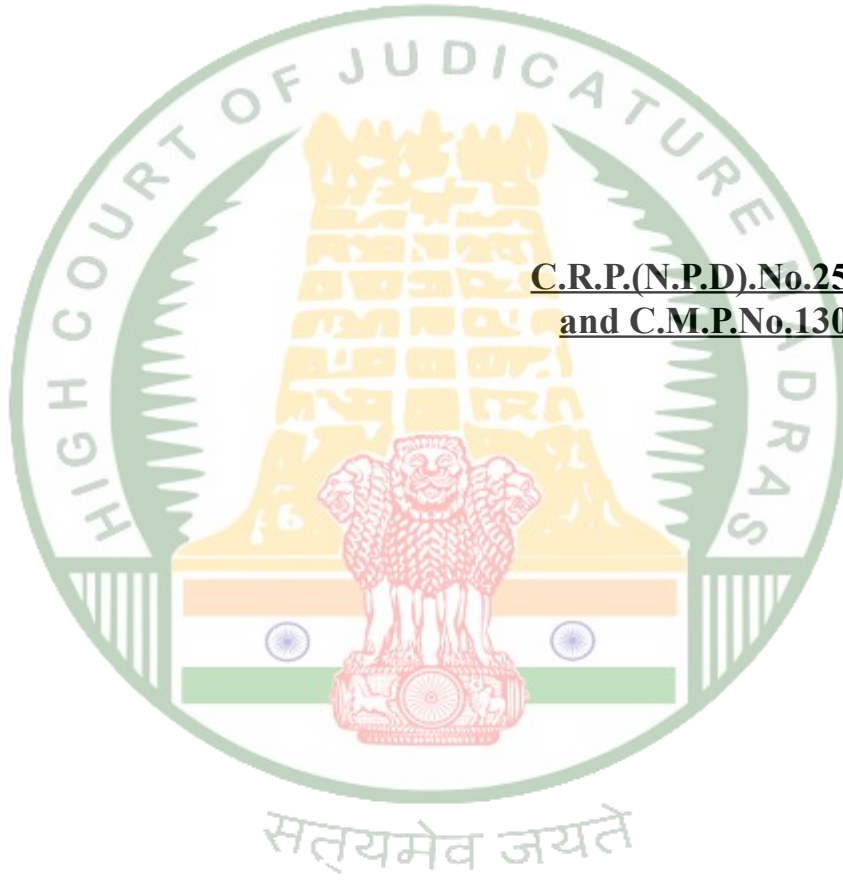
To
The Subordinate Judge, Pollachi.

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G.K.ILANTHIRAIYAN.J,

C.R.P.(N.P.D).No.2543 of 2016

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