

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

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

C.R.P (PD) No.2298 of 2018

and

C.M.P.No.14352 of 2018

Jeyamani

... Petitioner

Vs.

The President,
Somayampalayam Panchayat,
Periyannayanpalayam Union,
Rep.by Secretary Ananthakumar.

... Respondent

Prayer : Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to allow the Civil Revision Petition by setting aside the judgment and decretal order dated 07.04.2018 in I.A.No.647 of 2017 in O.S.No.291 of 2014 on the file of the Second Additional Subordinate Judge of Coimbatore.

For Petitioner : Mr.P.V.Selvarajan for
Mr.R.Aranganathan

For Respondent : Mr.L.Mouli

ORDER

This Civil Revision Petition is directed against the fair and decretal order passed in I.A.No.647 of 2017 in O.S.No.291 of 2014 dated 07.04.2018 on the file of the learned Second Additional Subordinate Judge, Coimbatore, thereby allowing the petition to condone the delay in filing the application to set aside the ex-parte decree.

2. The petitioner is the plaintiff and the respondent is the third defendant. The petitioner filed the suit for declaration and bare injunction in respect of the suit property. Thereafter, the respondent herein failed to appear before the Trial Court and as such, he was set ex-parte and the ex-parte decree was passed on 05.10.2016. Therefore, the respondent filed a petition to set aside the ex-parte decree with a delay of 237 days.

3. On a perusal of the affidavit filed in support of the condone delay petition, it reveals that the suit summons were served on the assistant of the Panchayat president and the same was not informed to the respondent. Therefore, he was not able to appear before the trial Court. When the petitioner on the strength of the ex-parte decree with rowdy elements attempted to enter into the suit property, the respondent came to understand about the ex-parte decree. Therefore, the Court below rightly

allowed the petition to condone delay in filing the set aside the ex-parte decree and this Court finds no infirmity or illegality in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. However, the trial Court is directed to dispose of the suit, within a period of six months from the date of receipt of a copy of this order. Consequently, the connected Miscellaneous Petition is closed. No costs.

23.06.2021

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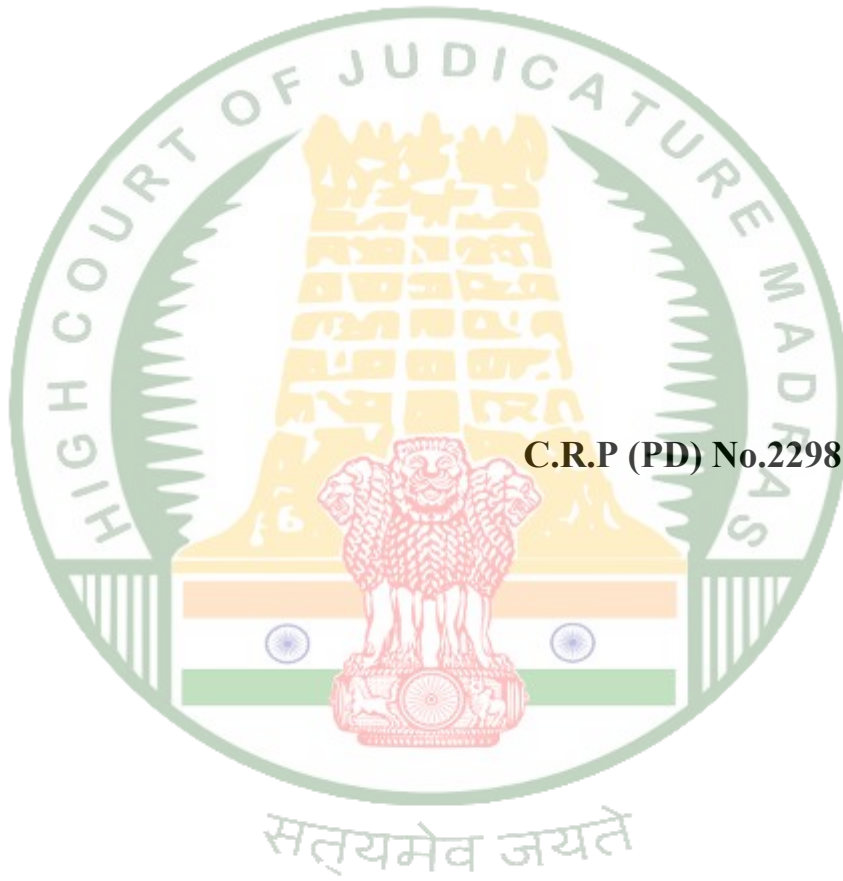
Index :Yes/No
Internet : Yes/No
To

1. The Second Additional Subordinate Judge,
Coimbatore.
2. The Section Officer,
V.R. Section, High Court of Madras.

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G.K.ILANTHIRAIYAN,J.

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