

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2021

CORAM

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

CRP.NPD.No.2342 of 2018

Sakunthala Ammal

... Petitioner

Vs.

1. Revathy
2. Senthil
3. Bhuvaneswari
4. Dhanalakshmi
5. Abirami
6. Ravi
7. Kumar
8. Kannan

9. The Secretary,
Kancheepuram Co-operative Town Bank Ltd.,
Kancheepuram Taluk & District.

... Respondents

PRAYER: The Civil Revision Petition is filed under Section 115 of the Civil Procedure Code, to set aside the order and decretal order dated 15.03.2018 made in I.A.No.258 of 2016 in O.S.No.33 of 2004 on the file of the learned Subordinate Judge, Kanchipuram.

For Petitioner

: Mr.P.R.Thiruneelakandan

For Respondents

: Mr.T.S.Baskaran (for R-1)
: Ex-parte (for R-2 to R-9)

ORDER

This Civil Revision Petition is directed as against the order and decretal order passed in I.A.No.258 of 2016 in O.S.No.33 of 2004 dated 15.03.2018 on the file of the learned Subordinate Judge, Kanchipuram, thereby dismissing the petition to condone the delay in filing the application to set aside the ex-parte decree.

2. The petitioner is the first defendant and the first respondent is the plaintiff. The first respondent filed a suit for partition. Before the trial Court, the petitioner failed to appear and as such, she was set ex-parte and the preliminary decree was passed by the judgment and decree dated 0708.2013. Thereafter, on the strength of the preliminary decree, the first respondent filed a final decree application. In the final decree proceedings, the petitioner duly received the notice and contested the final decree application. Thereafter, it was also decreed by the final judgment and decree dated 12.08.2013. In fact, during the inspection of the Advocate Commissioner, the petitioner was present and on her notice, the Advocate Commissioner inspected the suit property and filed his report. On the strength of the final decree, when the first respondent filed a petition for

possession of her share, the petitioner come forward with the petition to set aside the ex-parte decree passed on 12.08.2013 along with the petition to condone the delay of 2678 days. The petitioner was served notice in the final decree application and she had also appeared in the final decree proceedings. When that being so, after a period of 2678 days, that too after the filing of execution petition for delivery of possession, the present petition has been filed to set aside the ex-parte decree passed on 12.08.2013. Therefore, the Court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the Court below.

3. Accordingly, this Civil Revision Petition is dismissed. No costs.

15.06.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

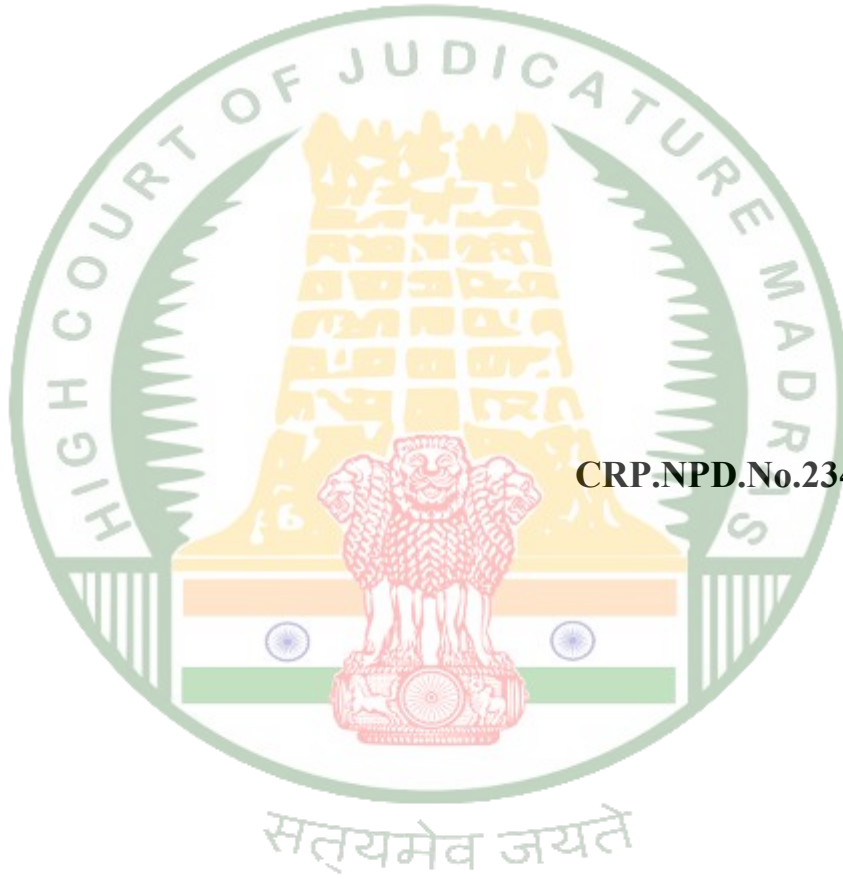
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To

1. The Subordinate Judge, Kanchipuram.
2. The Section Officer,
V.R.Section, High Court of Madras.

G.K.ILANTHIRAIYAN,J.

Kv



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