

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2021

CORAM

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

CRP.NPD.No.877 of 2016

and

CMP.No.4807 of 2016

Mohanani

..Petitioner

Vs.

Sathyan

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 115 of CPC praying to set aside the order dated 22.12.2015 passed in IA.No.10 of 2015 in OS.No.131 of 2012 on the file of the Principal Sub Court, Pondicherry.

For Petitioner : Mr.V.Udayakumar

For Respondent : Mr.T.M.Naveen

WEB ORDER COPY

The Civil Revision Petition is directed as against the fair and decretal order passed in IA.No.10 of 2015 in OS.No.131 of 2012 on the

file of the Principal Sub Court, Pondicherry thereby allowing the petition to condone the delay in filing the application to set aside the exparte decree.

2. The petitioner is the plaintiff. The respondent is the defendant. The petitioner filed suit for recovery of money on the basis of pronote executed by the respondent herein. The respondent appeared through his counsel and filed his written statement. After examining PW1, the respondent failed to cross examine PW1 and thereafter failed to appear before the trial court. Thereafter the trial court decreed the suit. The respondent filed petition to set aside the exparte decree with delay in filing the application to set aside the exparte decree dated 17.07.2014. The court below allowed the same and aggrieved by the same, the petitioner preferred this civil revision petition.

3. On perusal of the judgment passed by the court below revealed that when the matter was posted for cross examination of PW1 on 09.07.2014, the counsel for the respondent failed to cross examine PW1 and thereafter the suit was decreed on 17.07.2014. Therefore, the respondent was not set exparte. Further, the petition filed by the

respondent was entertained and the delay was also condoned. The suit is of the year 2012 and the suit was decreed for a sum of Rs.4,26,219/- with interest. While allowing the condone delay petition, the court below without ordering any cost allowed the petition.

4. Though this court finds no infirmity or illegality in the order passed by the court below, it can be allowed on condition. Accordingly, this civil revision petition is allowed and the respondent is directed to deposit a sum of Rs.2,50,000/- (Rupees Two Lakhs and Fifty Thousand only) to the credit of the suit in OS.No.131 of 2012 on the file of the Principal Sub Court, Pondicherry within a period of four weeks from the date of receipt of copy of this order, failing which the order dated 22.12.2015 passed in IA.No.10 of 2015 in OS.No.131 of 2012 on the file of the Principal Sub Court, Pondicherry shall stand automatically dismissed. Consequently, connected miscellaneous petition is closed. No order as to costs.

17.02.2021

Speaking/Non-speaking order
Index : Yes/No

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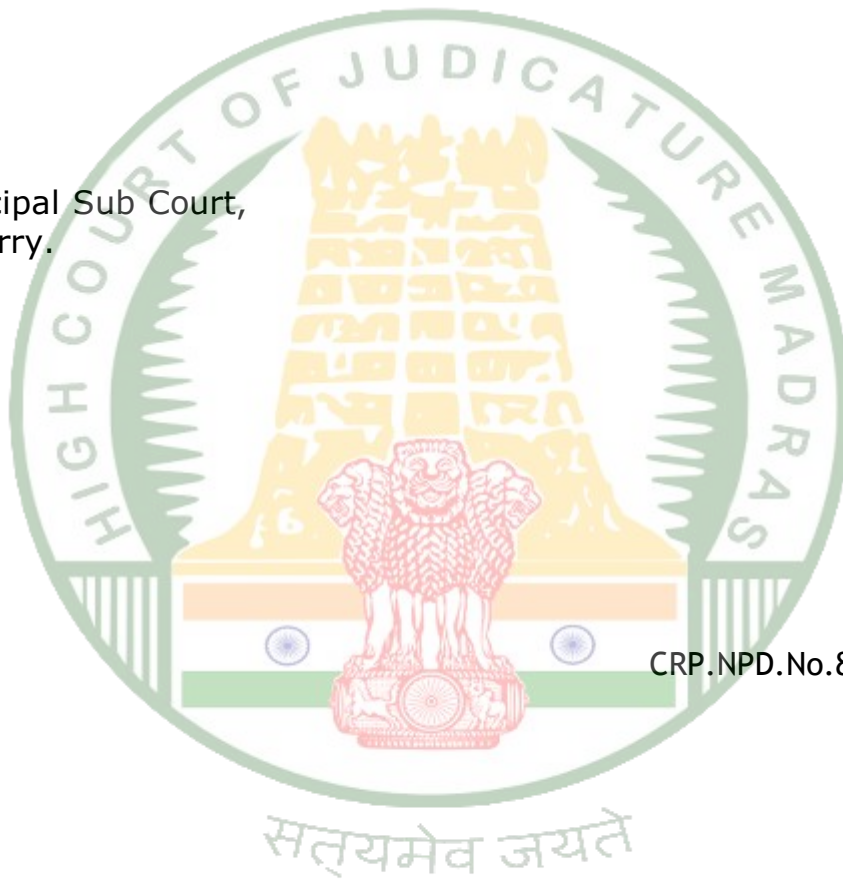
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G.K.ILANTHIRAIYAN,J.

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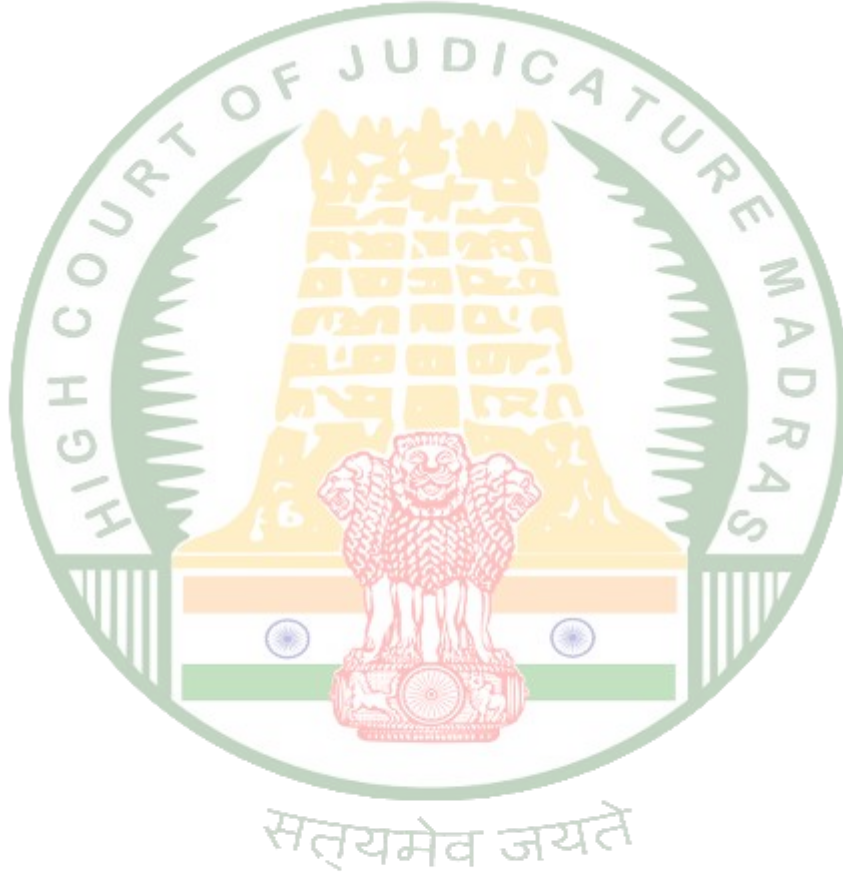
The Principal Sub Court,
Pondicherry.



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