

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.980 of 2016
and C.M.P.No.5545 of 2016

1.Easwari Manivannan

2.Manivannan

... Petitioners/Defendants

Vs.

Ravindran

... Respondent/Plaintiff

Prayer: The Civil Revision Petition filed under Article 227 of the Constitution of India, against the order and decretal order dated 15.03.2016 passed in I.A.No.17198/2015 in O.S.No.3443 of 2002 on the file of XIV Assistant Judge, City Civil Court, Chennai.

For Petitioners : Mr.R.Ramesh

For Respondent : No appearance

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed challenging the Order dated 15.03.2013 passed in I.A.No.17198/2015 in O.S.No.3443 of 2002 by the XIV Assistant Judge, City Civil Court, Chennai, in dismissing the petition filed to set aside the *ex parte* Decree.

2. The Defendants are the Petitioners herein.

3. The learned counsel for the petitioners submitted that before dismissing the petition filed for setting aside the *ex parte* Decree, they have filed a petition under Section 5 to condone the delay of 4219 days in filing the petition to set aside the *ex parte* Decree and that has been allowed by the Court below. Despite the same, the trial Court did not consider the petition to set aside the *ex parte* Decree in favour of the petitioners and has chosen to dismiss the same.

4. The respondent being the plaintiff, has filed a suit for recovery of a sum of Rs.15,000/- towards the alleged damages caused by the petitioners while they were residing as tenants in the property of the plaintiff. The suit which is valued at a meagre sum of Rs.15,000/- and is pending right from the year 2002 and the *ex parte* Decree has been passed on 24.01.2003. These Civil Revision Petitioners having waited after several years have chosen to file a petition to set aside the *ex parte* Decree after a delay of 4219 days.

5. Though, it is submitted by the learned counsel for the petitioners that the trial Court has condoned the delay of 4219 days, the said Order could not be found in the record. Even if it is taken that the learned trial Judge has condoned

the delay in filing the petition to set aside the *ex parte* Decree, the trial Court was not precluded from appreciating the facts pleaded or reasons stated for setting aside the *ex parte* Decree independent of its Order passed in the petition to condone the delay.

6. The petitioners have submitted that the summon was not served on him and that is why he could not attend the court. The learned trial Court has recorded a finding that a summon has been sent to the very same address which has been stated in the affidavit filed along with the petition for setting aside the *ex parte* Decree. Having found that the reason stated by the petitioners to set aside the *ex parte* Decree is not true and correct, the learned trial Judge has chosen to dismiss the petition.

7. Under such circumstances, I find no reason to interfere with the same and consequently, the Civil Revision Petition is dismissed. No costs. Connected civil miscellaneous petition is closed.

23.06.2021

Speaking/Non-speaking
Index: Yes/No

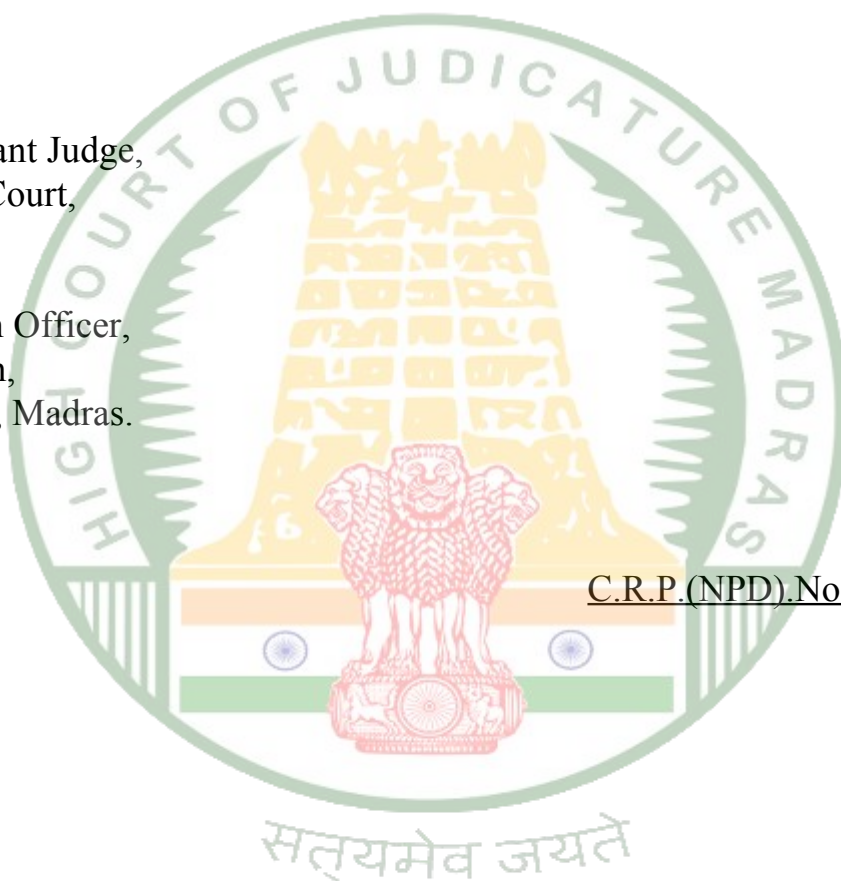
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R.N.MANJULA,J.

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To

- 1.XIV Assistant Judge,
City Civil Court,
Chennai.
- 2.The Section Officer,
V.R.Section,
High Court, Madras.



C.R.P.(NPD).No.980 of 2016

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