

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2021

C O R A M

THE HON'BLE MR. JUSTICE **KRISHNAN RAMASAMY**

C.R.P.(NPD)No.2885 of 2018
and C.M.P.No.16931 of 2018

A.Vivek Anand

...Petitioner

Vs

K.Sulochana (Died)

1.K.Lakshmi

2.T.K.Ragini

3.K.Uma

4.S.Latha

... Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, prayed to set aside fair and decretal order in I.A.No.354 of 2014 in O.S.No.185 of 2007 dated 12.02.2018 on the file of the Sub-Court, Ranipet, Vellore District.

For Petitioner : Mr.P.A.Sudesh Kumar

For Respondents : Mr.T.Kalaiselvan

ORDER

This Civil Revision Petition has been filed against the order dated 12.02.2018 made in I.A.No.354 of 2014 in O.S.No.185 of 2007 on the file of the Sub-Court, Ranipet, Vellore District.

2.The gist of the case is that, I.A.No.354 of 2014 was filed to condone the delay of 934 days in filing the petition to set aside the ex-parte order. The Court below, after hearing both the parties, condoned the delay on condition to pay a sum of Rs.1,500/- to the respondents on or before 20.02.2018. Though the petitioner was ready to make the payment, the learned counsel for the respondent, who appeared before the Court below had refused to accept the payment stating that the lodgment was not filed in time. Aggrieved by the same, the present Civil Revision Petition has been filed.

3.The learned counsel for the respondents submitted that the petitioner is not correct to state that the respondents' counsel refused to receive the cost when there is a delay on his side and the Court below has rightly rejected that the lodgment which was not filed in time. On a perusal of the lodgment, it could be seen that the lodgment was filed on 21.02.2018. Further, only a preliminary decree was passed and the revision petitioner alone was set exparte in the suit and he is entitled to participate in the final decree.

4.Heard the learned counsel for the petitioner and the learned counsel for the respondents and perused the materials available on record.

5.On perusal of the records, it could be seen that the preliminary decree was passed on 15.12.2011. The Revision Petitioner was set exparte before passing of preliminary decree. Therefore, the petitioner has filed an application to condone the delay in filing the petition to set aside the exparte order. The Court below condoned the delay of 934 days on condition of payment of Rs.1,500/-. Further, it appears that the Revision Petitioner was ready to make the payment and the learned counsel for the respondent who appeared before the Court below had refused to receive the same. But the petitioner has not produced any proof for the same.

6.As the Court below condone the delay of 934 days, the Revision Petitioner standing on the technicalities with regard to the payment of cost and even on perusal of the records, it shows that the Revision Petitioner made a lodgment on 21.02.2018 and there may be a chance for mis-communication and the respondents may not be in a position to receive the cost. In the interest of justice and for the reason that the case of the petitioner should not be rejected, this Court is of the view that it would be appropriate to permit the petitioner to pay the cost as directed by the Court below.

7. Accordingly, this Court permits the petitioner to pay a cost of Rs.1,500/- as directed by the Court below within a period of 7 days from the date of receipt of a copy of this order. While passing the above order, this Court impose a cost of Rs.10,000/- to the petitioner, to be paid to the learned counsel for the respondents in the present revision petition within a period of 7 days from the date of receipt of a copy of this order. In the event of failure to make the payments, this Civil Revision Petition stands dismissed. The Court below is also directed to dispose the suit within a period of six months from the date of receipt of a copy of this order.

8. With the above observation, this Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

20.01.2021

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order

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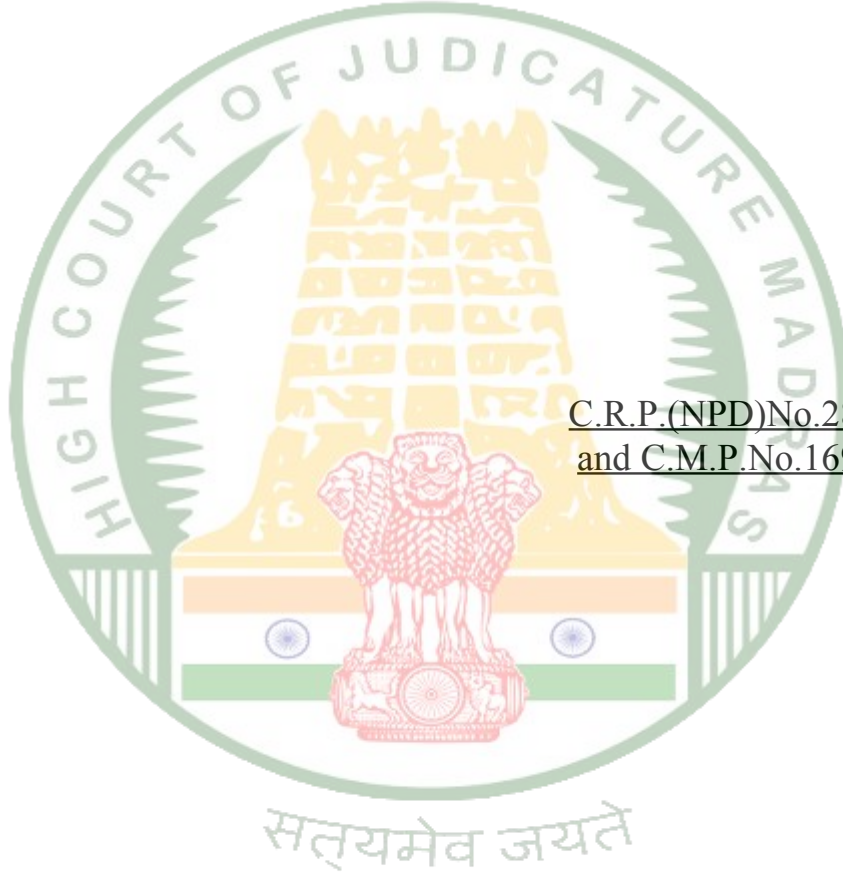
To
The Sub-Court, Ranipet,
Vellore District.



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KRISHNAN RAMASAMY,J.

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