

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2021

CORAM

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

CRP (NPD) No.873 of 2018
and CMP No.4797 of 2018

Jeyaram Achari ... Petitioner

Vs

Savithri Ammal ... Respondent

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the order dated 24.11.2017 made in I.A.No.513 of 2015 in RCOP No.1 of 2013 on the file of the Principal District Munsif Court, Cheyyar, Tiruvannamalai District.

For Petitioner : Mr.L.Srilekha

For Respondent : Mr.K.G.Senthil Kumar

ORDER

This Civil Revision Petition is directed against the fair and decreetal order dated 24.11.2017 made in I.A.No.513 of 2015 in RCOP No.1 of 2013 on the file of the Principal District Munsif Court, Cheyyar, Tiruvannamalai District, thereby dismissing the petition to condone the delay of 287 days in filing the petition to set aside the ex-parte decree.

2. The petitioner is the respondent and the respondent is the petitioner in the eviction petition for wilful default. In the Rent Control proceedings, a notice was duly served on the petitioner. On receipt of the notice, the petitioner failed to engage any counsel and also did not file any counter. Therefore, he was set exparte and exparte decree was passed against the petitioner. After coming to know about the same, the petitioner filed a petition to set aside the exparte decree with a delay of 287 days.

3. A perusal of the affidavit filed in support of the condone delay petition reveals that on receipt of the notice in Rent Control proceedings, he was temporarily working as jewel appraiser in Thenthandalam Village Central Co-operative Bank. Because of his illness, he stopped his avocation and he kept the suit notice in the bank itself and as such he did not know about the hearing date and failed to engage any counsel. Due to illness he also did not appear before the Trial Court on the date of hearing. Therefore, he was set exparte and exparte decree was passed.

4. Whereas, the respondent filed a counter stating that in the

present Rent Control proceedings, immediately, after receipt of the notice, he was duly appeared on 22.02.2013 before the Rent Controller. Thereafter, on several hearings, he appeared and sought time for filing counter. Therefore, the Trial Court posted the matter for filing counter on 25.09.2013 and on that date he was absent. Hence, he was set ex-parte. Thereafter, the matter was posted for recording of ex-parte evidence on 02.04.2014 and on that day, the ex-parte decree was passed. In fact, he also filed a suit in O.S.No.121 of 2009 for bare injunction, in which he appeared before the same Court on several hearings and when he appeared on 29.01.2014, he was partly cross-examined and on 25.03.2014 he was fully cross-examined in the said suit. Even thereafter, he appeared in O.S.No.121 of 2009 on 02.04.2014, 07.04.2014, 11.04.2014, 22.04.2014, 03.06.2014, 04.06.2014, 11.06.2014, 17.06.2014, 20.06.2014, 24.06.2014 and 30.06.2014. In fact, during his cross examination in O.S.No.121 of 2009, he categorically admitted that in the rent control proceedings he was set ex-parte. Therefore, the petitioner filed a false affidavit stating false reasons. Hence, the petitioner failed to state sufficient reasons for the delay of 287 days in filing the petition to set aside the ex-parte decree. Therefore, the Court below rightly dismissed the petition to condone the delay of 287 days in filing

the petition to set aside the ex-parte decree.

5. In view of the above, this Court finds no illegality or infirmity in the order passed by the Trial Court. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently connected miscellaneous petition is closed.

22.04.2021

Speaking/Non-speaking order

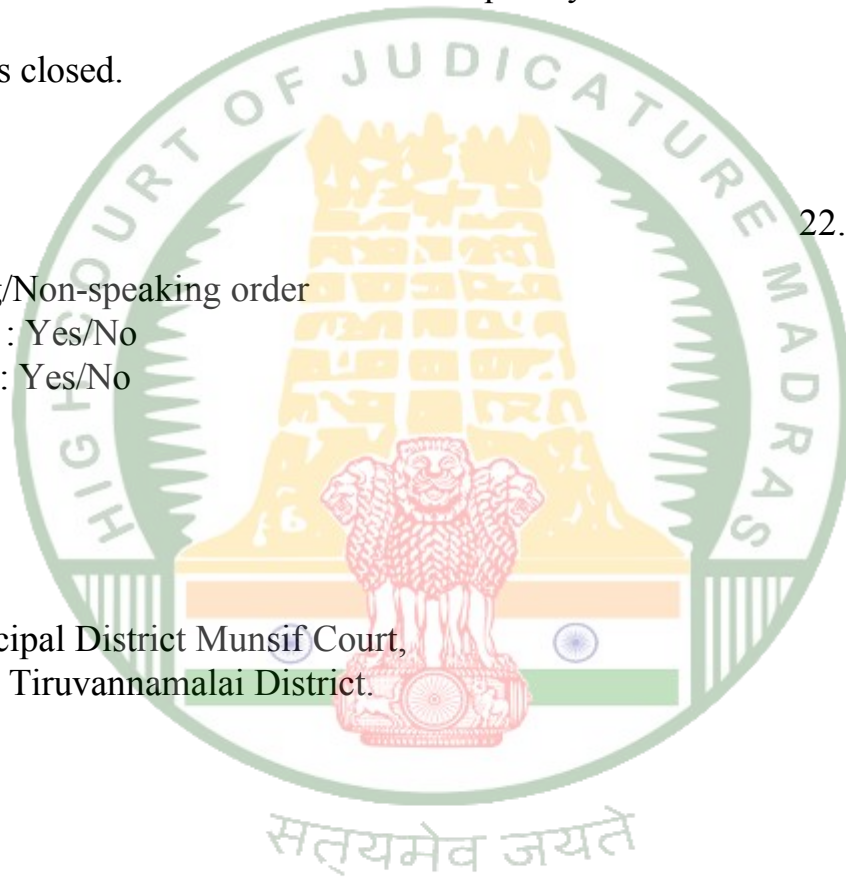
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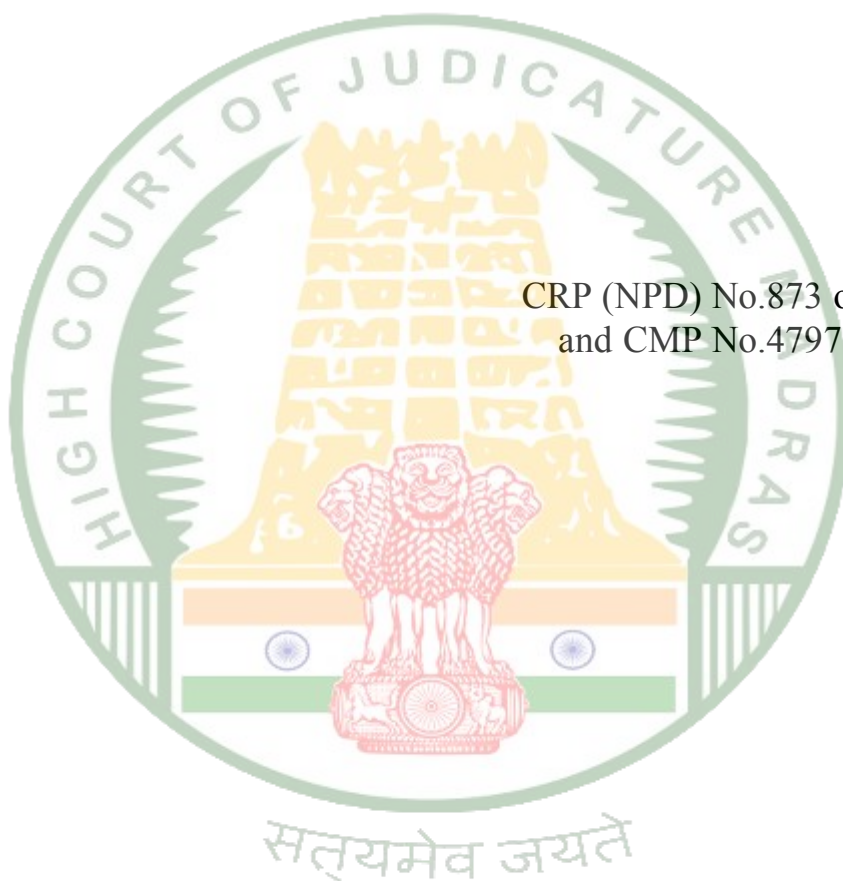
To

The Principal District Munsif Court,
Cheyyar, Tiruvannamalai District.



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G.K.ILANTHIRAIYAN, J.



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