

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

CORAM

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

CRP.NPD.No.4333 of 2014

and

MP.No.1 of 2014

1. K.Sekar (Died)
2. Lakshmi
3. Poongodi
4. Menaka
5. Bojarajan

[Petitioners 2 to 5 brought on record as LR's of the deceased sole petitioner viz., K.Sekar vide Court order dated 24.02.2021 made in CMP.No.24372, 24378 and 24381 of 2019 in CRP (NPD) No.4333 of 2014].

... Petitioners

Vs.

S.Shanthi

... Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, to set aside dated 12.08.2014 made in I.A.No.110 of 2014 in O.S.No.132 of 2012 on the file of the First Additional District Munsif Court, Erode by allowing this Civil Revision petition.

For Petitioners : Mr.N.Manokaran

For Respondent : Not Ready in Notice
(No Appearance)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.110 of 2014 in O.S.No.132 of 2012 dated 12.08.2014 on the file of the learned First Additional District Munsif, Erode thereby, dismissing the petition to condone the delay of 336 days in filing the application to set aside the ex-parte decree.

2. The first petitioner is the first defendant (since deceased) in the suit filed by the respondent for declaring the defendants to deliver the possession of the suit property. After receipt of the notice, the first petitioner herein did not appear before the trial Court and failed to file any written statement. Therefore, he was set ex-parte and the ex-parte decree was passed on 20.11.2011. Thereafter, the respondent filed an Execution Petition in E.P.No.73 of 2013. On receipt of the notice from the Execution Court, the first petitioner entered his appearance through his counsel on 26.09.2013. After a period of 336 days from his appearance before the Execution Court, he filed a petition to set aside ex-parte decree with a delay of 336 days.

3. On a perusal of the affidavit filed in support of the condone delay petition, it is seen that the first petitioner suffered from Jaundice and as such, he was unable to meet his counsel. But he did not state any reason for the delay occurred after entering his appearance in the Execution Court and he did not file a petition to set aside the ex-parte decree immediately. Therefore, the Court below rightly dismissed the condone delay petition. As such, this Court finds no infirmity or irregularity in the order passed by the Court below.

4. Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No order as to costs.

सत्यमेव जयते

24.02.2021

Speaking/Non-speaking order

Index : Yes/No

Internet : Yes/No

kv

To

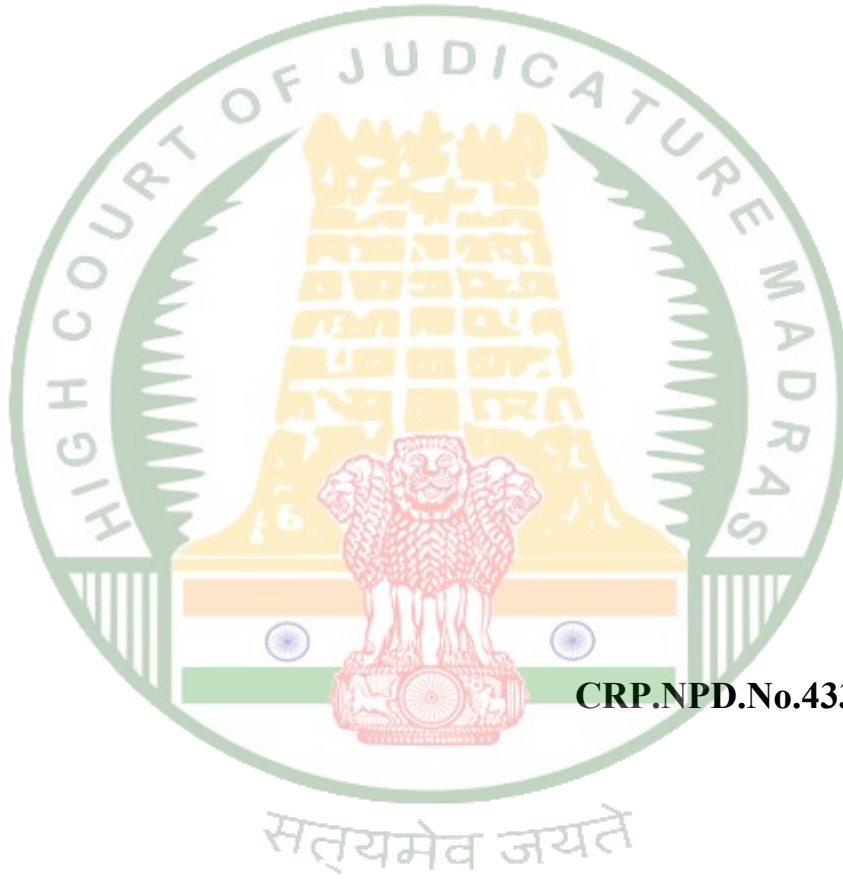
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The First Additional District Munsif, Erode.

G.K.ILANTHIRAIYAN,J.

Kv



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