

IN THE HIGH COURT OF JUDICATURE AT MADRAS  
DATED : 07.09.2021

CORAM  
**The Hon'ble Mr.Justice Krishnan Ramasamy**

**C.R.P (NPD)No.2172 of 2017**

**and**

**C.M.P.No.10449 of 2017**

1.Sidhuraj  
2.Chinnasamy

.. Revision petitioners

vs.

Pasuvanna

..Respondent/Plaintiff

**PRAYER:**

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the order in I.A.No.132/2016 in unnumbered AS (C.F.R)No.5984/2016 dated 20.02.2017 on the file of Sub-Court Sathyamangalam allow the above revision.

For Revision petitioners - M/S Chokkalingam  
For Respondent - No appearance

सत्यमेव जयते

**ORDER**

This Civil Revision Petition is filed against the order passed by the Court below (Sub-Court Sathyamangalam) in I.A.No.132 of 2016 in an unnumbered AS (C.F.R.) No.5984 of 2016, dated 20.02.2017.

2. According to the revision petitioner, the Appeal was filed with a delay of four days. Therefore, he filed an application to condone the delay of four days, and the Court below, vide order, dated 13.02.2017, condoned the delay, subject to the payment of cost of Rs.1000/- to the respondent. But, as directed by the Court below, revision petitioner has not paid the costs. Therefore, the matter was listed before the Court below on 20.02.2017, on which date, the revision petitioner was called absent and since the order of the Court below, dated 13.02.2017, was not complied with, the Appeal was dismissed for default. Challenging the said order, present Civil Revision Petition is filed.

3. It is seen that notice of motion was ordered by this Court on 05.07.2017. Though notice was served on the sole respondent and his name is printed in the causelist, either the learned counsel for the respondent or the respondent himself has appeared.

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4. Heard the learned counsel for the revision petitioners and perused the materials available on record.

5. The main reason for non appearance of the revision petitioner is that, he was not able to reach the Court below so as to instruct his counsel to pay the cost and handover cash to him, as the revision petitioner is living in a remote area, viz. Thalavadi Forest Area, which is far away from the Court, (Sathymangalam). Therefore, he was not able to pay the costs.

6. Considering the facts that the delay was only four days, and the Application was dismissed for default owing to non payment of the costs imposed by the Court below and now, the revision petitioner is ready and willing to pay the costs, this Court is of the view that the right of the revision petitioner to file statutory appeal cannot be denied, simply for the reason that the cost ordered by the Court below was not paid in time.

7. In view of the above, I am inclined to allow the Civil Revision Petition and set aside the order passed by the Court below. Accordingly, the Civil Revision Petition is allowed and the impugned order is set aside. The revision petitioner is hereby directed to pay the cost of Rs.1000/- to the

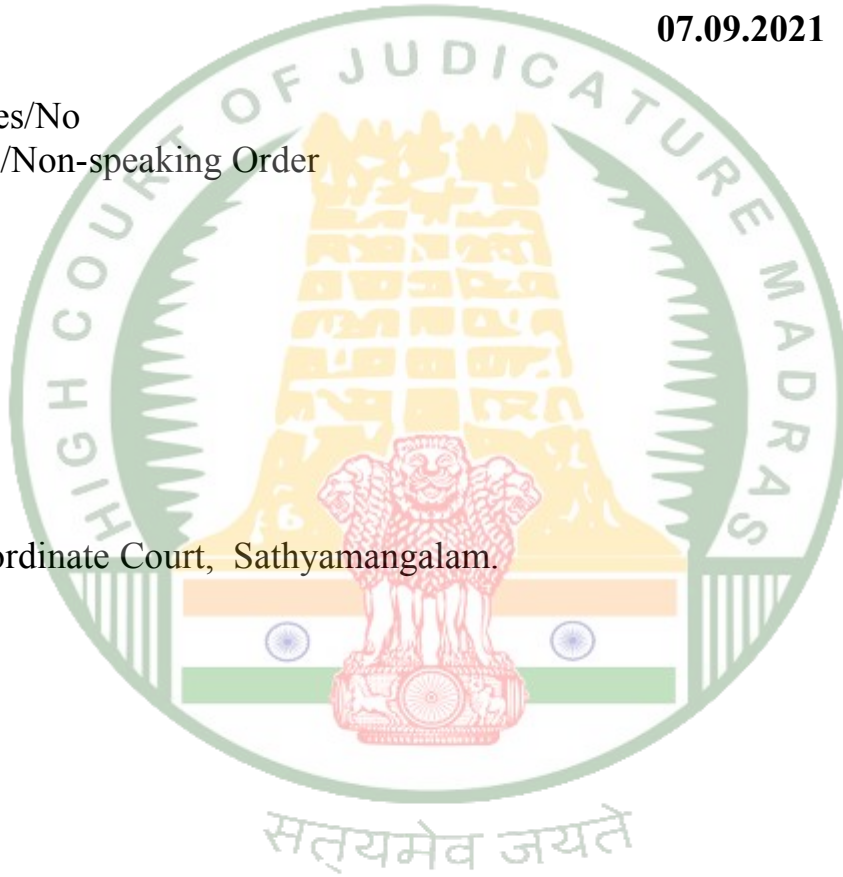
respondent as directed by the Court below, within a period of fourteen days from the date of receipt of copy of this order. No costs. Consequently, connected Civil Miscellaneous Petition is closed.

**07.09.2021**

Index: Yes/No  
Speaking/Non-speaking Order  
jd/sd

To

The Subordinate Court, Sathyamangalam.



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**Krishnan Ramasamy, J.,**  
jd/sd



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