

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.08.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.316 of 2017

Seerangammal

.. Petitioner

Vs.

1.S.Balakrishnan

2.R.Subramaniam

3.K.Mohan

4.S.Ravi

5.State Government of Tamil Nadu,
Rep. By its District Collector,
Erode District.

.. Respondents

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 07.01.2016 made in I.A.No.72 of 2015 in C.F.R.No.19797 of 2013 on the file of the Principal Sub Court, Erode.

For Petitioner : Mr.B.Nedunchezhiyan

For Respondents : No appearance (For R1 & R3)

Dr.S.Suriya (For R5)
Government Advocate (CS)

ORDER

(The matter is heard through 'video conferencing/hybrid mode')

Heard the learned counsel appearing for the petitioner as well as the learned Government Advocate (CS), appearing for the 5th respondent and perused the entire materials available on record.

2.The petitioner filed plaint before the Principal Sub Court, Erode, praying to set aside the sale deed dated 13.12.1991, bearing Document No.3649 of 1991, registered in the Sub Registrar Office, Erode and to grant permanent injunction, restraining the respondents from interfering with the peaceful possession and enjoyment of the suit property. The said plaint was returned by the Trial Court, for certain defects. The petitioner re-presented the plaint after the delay of 351 days and filed I.A.No.72 of 2015, to condone the delay in re-presenting the plaint. According to the petitioner, she was not well and therefore, she could not re-present the plaint in time. The learned Judge considering the averments in the printed form of the affidavit and the arguments of the counsel for the petitioner,

dismissed the said I.A.No.72 of 2015 on 07.01.2016. Against the said order of dismissal, the petitioner filed the present Civil Revision Petition.

3.According to the learned counsel for the petitioner, when sufficient cause is shown by the petitioner and events are pointed out for the delay, the Court has power to condone the delay and extend the time for re-presentation. After taking return of the plaint, the bundle got mixed up with other bundles in the Advocate's office and therefore, the plaint could not be re-presented in time. From the averments in the printed form of the affidavit filed in support of the above I.A., it is seen that the petitioner has stated that due to her illness, the plaint could not be re-presented in time. The petitioner has not given any details regarding her illness and the date from which she was suffering from the said illness. On the other hand, at the time of arguments before the Trial Court and in the grounds of revision, the petitioner has stated that the bundle got mixed up with other bundles in the Advocate's office and therefore, the plaint could not be re-presented in time. In the printed form of the affidavit filed in support of the above petition, the reason given that

bundle got mixed up with other bundles was struck off. Without any pleadings, it is not open to the petitioner to give a new reason at the time of arguments and in the grounds of revision. The learned Judge has considered all the materials in proper perspective and by giving valid reason, dismissed I.A.No.72 of 2015. There is no error or irregularity in the order of the Tribunal, warranting interference by this Court.

Accordingly, the Civil Revision Petition is dismissed. No costs.

09.08.2021

Index :: Yes/No
gsa

To

The Principal Subordinate Judge,
Erode.

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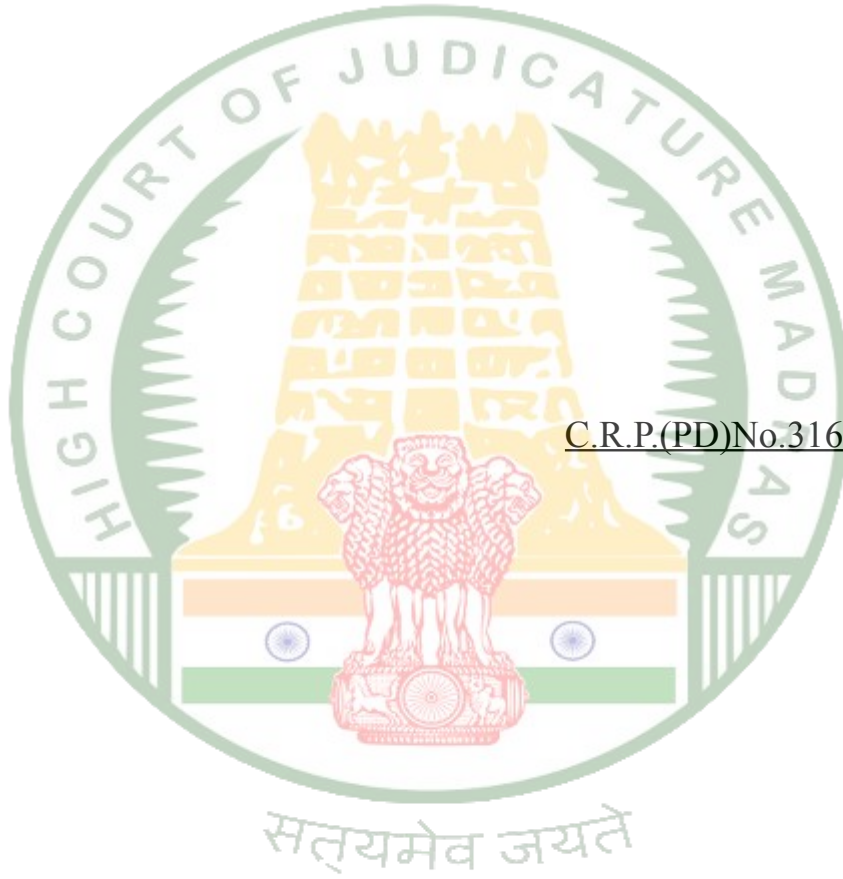


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C.R.P.(PD).No.316 of 2017

V.M.VELUMANI, J.

gsa



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