

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

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

CRP.NPD.No.4567 of 2017

and

CMP.No.21540 of 2017

1. S.Meganathan

2. M.Mathivanan

..Petitioners

Vs.

B.Srinivasan

..Respondent

PRAYER: The Civil Revision Petition is filed under Section 115 of the Code of Civil Procedure, praying to set aside the fair and decretal order dated 06.11.2017 made in I.A.No.525 of 2015 in M.C.O.P.No.105 of 2010, on the file of the Subordinate Court, Gudiyattam, Vellore District and to allow the above Civil Revision Petition.

For Petitioners : Mr.C.Prabakaran

For Respondent : Mr.N.Manokaran

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.525 of 2015 in M.C.O.P.No.105 of 2010 dated

06.11.2017 on the file of the the Subordinate Court, Gudiyattam, Vellore District, thereby, dismissing the petition to condone the delay in filing the application to set aside the ex-parte decree.

2. The petitioners are the respondents in the claim petition filed by the respondent herein. The respondent filed a claim petition before the Motor Accident Claims Tribunal for the grievous injuries sustained by him. While injured was walking on the mud road, the second petitioner had driven first petitioner's Motor Cycle in a rash and negligent manner and hit against the injured. Therefore, he sustained fractures on his both legs and grievous injuries all over the body and also sustained multiple injuries. Immediately, he was taken to the hospital and he was admitted as in-patient and had taken treatment for 10 days. Therefore, he filed a claim petition claiming a sum of Rs.5,00,000/- as against the petitioners herein. Though notice was served on the petitioner and engaged, they failed to appear before the Motor Accident Claims Tribunal and also failed to file any counter to the Claim Petition.

3. On the side of the respondents, they examined as P.W.1 and P.W.2 and marked as Exs.P.1 to P9. Though the petitioners were set ex-parte, the

Motor Accident Claims Tribunal considered the evidence on record and also materials produced in support of the claim by the respondent herein and awarded a sum of Rs.1,01,484/- payable by the petitioners herein. Thereafter, the respondent filed an Execution Petition and on the Execution Petition, notice was served on the petitioners. Only on the receipt of the notice in the Execution Petition, the petitioners have come forward with the petition to set aside the ex-parte decree with a delay of 451 days in filing the application to set aside the ex-parte decree.

4. On a perusal of the affidavit filed in support of the condone delay petition, it is seen that on receipt of notice in the claim petition, he engaged counsel and he failed to appear before the Motor Accident Claims Tribunal and also failed to file counter. Therefore, he threw back the bundle and engaging his new counsel and on his advise, the petitioners filed a petition to set aside the ex-parte decree with a delay of 451 days. Therefore, admittedly, no sufficient reasons stated in the affidavit of the condone delay petition. Therefore, this Court finds no irregularity or infirmity in the order passed by the Court below.

G.K.ILANTHIRAIYAN,J.

Kv

5. Accordingly, this Civil Revision Petition is dismissed.

Consequently, the connected Miscellaneous Petition is closed. No costs.

11.02.2021

Speaking/Non-speaking order

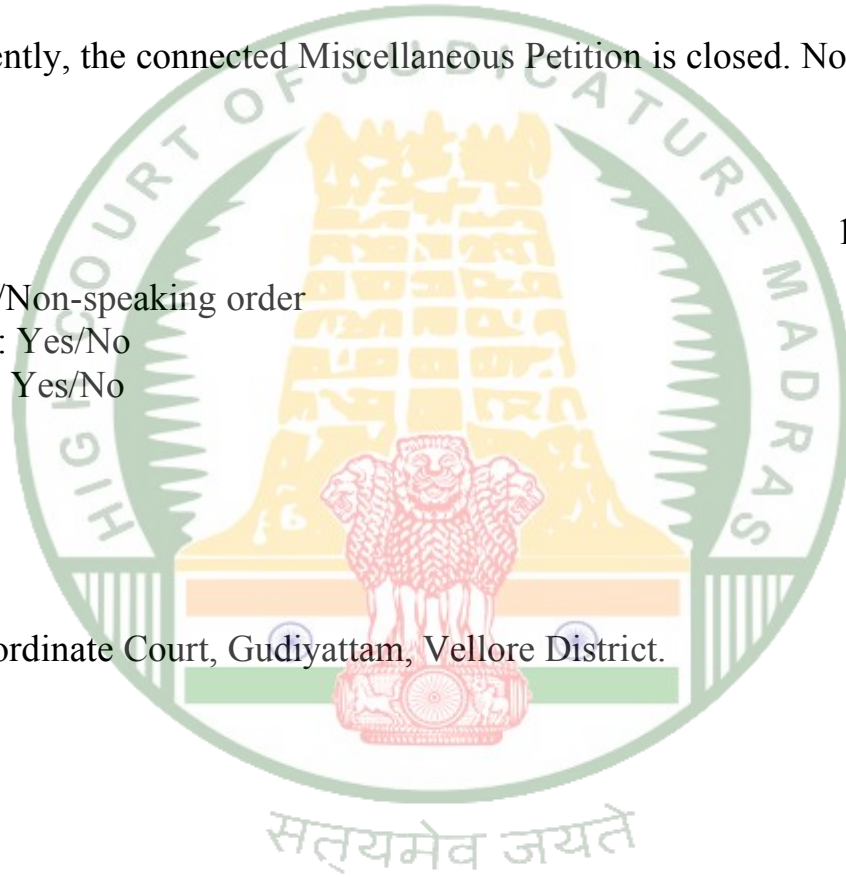
Index : Yes/No

Internet : Yes/No

kv

To

The Subordinate Court, Gudiyattam, Vellore District.



WEB COPY

CRP.NPD.No.4567 of 2017