

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD).No.845 of 2017

and

C.M.P.No.4144 of 2017

1.K.Somasundaram

2.Jayanthi

... Petitioners

Vs.

Madhaiyan

... Respondent

Prayer: This Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decretal order dated 07.02.2017 made in I.A.No.920 of 2016 in O.S.No.201 of 2012 on the file of the District Munsif Court, Sankari.

For Petitioners : Mr.Poovendra Perumal
for M/s.Sai Bharath and Ilan

For Respondent : Mr.Ramanan
for Mr.N.Manokaran

ORDER

(The matter is heard through “Video Conferencing/Hybrid Mode”).)

This Civil Revision Petition is filed against the fair and decretal order

dated 07.02.2017 made in I.A.No.920 of 2016 in O.S.No.201 of 2012 on the file of the District Munsif Court, Sankari.

2.Heard the learned counsel appearing for the petitioners as well as the learned counsel appearing for the respondent and perused the entire materials on record.

3.The respondent filed the suit in O.S.No.201 of 2012 for declaration and permanent injunction. The petitioners filed written statement and are contesting the suit. When the suit was posted for Trial on 07.02.2014, the respondent did not appear and suit was dismissed for default. The respondent filed the present I.A.No.920 of 2016 to restore the suit which was dismissed for default on 07.02.2014 along with I.A.No.921 of 2015 filed to condone the delay of 200 days in filing the present petition to restore the suit. According to the respondent, due to his illness, he could not appear on the date of hearing and produced the medical records to prove his illness. The learned Judge allowed I.A.No.921 of 2015 filed to condone the delay of 200 days on payment of cost of Rs.2,000/- (Rupees Two Thousand Only). Against the said order dated 24.06.2016 allowing the I.A.No.921 of 2015, the petitioner has filed C.R.P.No.3431 of 2016 before this Court. This Court, by the order dated

07.11.2016, dismissed the C.R.P., holding that the respondent satisfactorily explained the reasons for the delay in the affidavit filed in support of the I.A.No.921 of 2015 by producing medical records before the Trial Court and directed the learned Judge to dispose of the suit within a period of three weeks from the date of receipt of a copy of that order. After order of this Court, the learned Judge has taken up this I.A.No.920 of 2016 to restore the suit which was dismissed for default. The learned Judge considering the pleadings and order of this Court dated 07.11.2016, allowed the I.A.No.920 of 2016.

4.The learned counsel appearing for the petitioners submitted that the application to restore the suit was returned by the Court on 12.02.2014 granting four weeks time directing the respondent to represent the same within four weeks. But the respondent represented the application only on 18.04.2014, after nine weeks of return. The learned Judge without properly appreciating the same, allowed the I.A.

5.From the earlier order of this Court dated 07.11.2016 made in C.R.P.No.3431 of 2016 it is seen that while dismissing the C.R.P. this Court directed the learned Judge to dispose of the suit within three weeks from the

date of receipt of that order. The learned Judge considering the averments in the affidavit, earlier order in I.A.No.921 of 2015 and the order of this Court dated 07.11.2016 made in C.R.P.No.3431 of 2016 has rightly allowed the I.A.No.920 of 2016 filed to restore the suit. In view of the same, there is no error or irregularity in the order of the learned Judge warranting interference by this Court.

6.Accordingly, this Civil Revision Petition is dismissed. Consequently, the connected Miscellaneous Petition is closed. No costs.

11.08.2021

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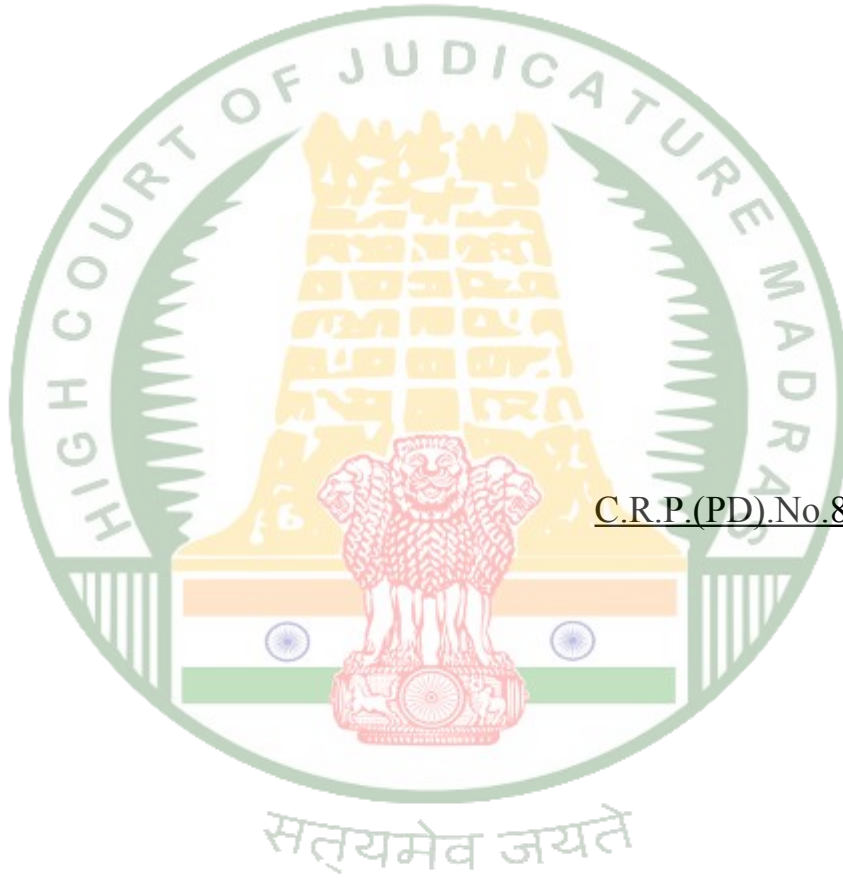
Index : Yes / No
Internet : Yes / No

To

The District Munsif,
Sankari.

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V.M.VELUMANI, J.
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