

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2021

CORAM

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

C.R.P.(NPD) No.996 of 2017

Dhaksinamoorthy ... Petitioner

Vs.

Velayutham ... Respondent

Prayer :- Civil Revision Petitions are filed under Section 115 of C.P.C., to set a side the fair and decretal order dated 14.11.2016 passed in I.A.No.55 of 2016 in unnumbered A.S., on the file of the Subordinate Judge, Nagapattinam.

For Petitioner : Mr.K.Govi Ganesan

For Respondent : Mr.C.Prabakaran

For Mr.Ln.V.Kasinatha Bharathi

ORDER

This Civil Revision Petition has been filed as against the fair and decretal orders dated 14.11.2016 passed by the learned Subordinate Judge, Nagapattinam in I.A.No.55 of 2016 in unnumbered A.S., thereby dismissing the petition to condone the delay in filing the appeal suit.

2. The respondent is the plaintiff and he filed suit in O.S.105 of

2008 as against the petitioner for recovery of money. The suit was decreed by the judgment and decree dated 30.06.2015 as against the petitioner. Aggrieved by the same, the petitioner filed appeal suit with the delay of 330 days in filing the appeal. The appellate Court dismissed the said petition and as against which the present Civil Revision Petition.

3. On perusal of affidavit filed in support of the petition to condone the delay, it was stated that the petitioner was suffering from jaundice and as such he could not able to contact his counsel and he was not able to file appeal suit in time. The Court below dismissed the said petition for the reason that the petitioner failed to examine the doctor, who treated him for jaundice and also he did not produce any relevant documents to prove that the petitioner was suffering from jaundice.

4. It is seen that the petitioner was taking country treatment as such no doctor could be examined and no medical records could be produced. Considering the said fact, the petitioner may be given one more opportunity to avail his appeal remedy with some conditions. Accordingly,

the order dated 14.11.2016 passed by the learned Subordinate Judge, Nagapattinam in I.A.No.55 of 2016 in unnumbered A.S., is hereby set aside, on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees five thousand only) as costs to the respondent directly within a period of two weeks from the date of receipt of copy of this Order, failing which this order shall stand automatically cancelled. After complying the said condition, the appellate Court viz., the learned Subordinate Judge, Nagapattinam, is directed to number the appeal suit and dispose the same within a period of six months thereafter.

5. With the above directions, the Civil Revision Petition stands allowed. There shall be no order as to costs.

10.03.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts

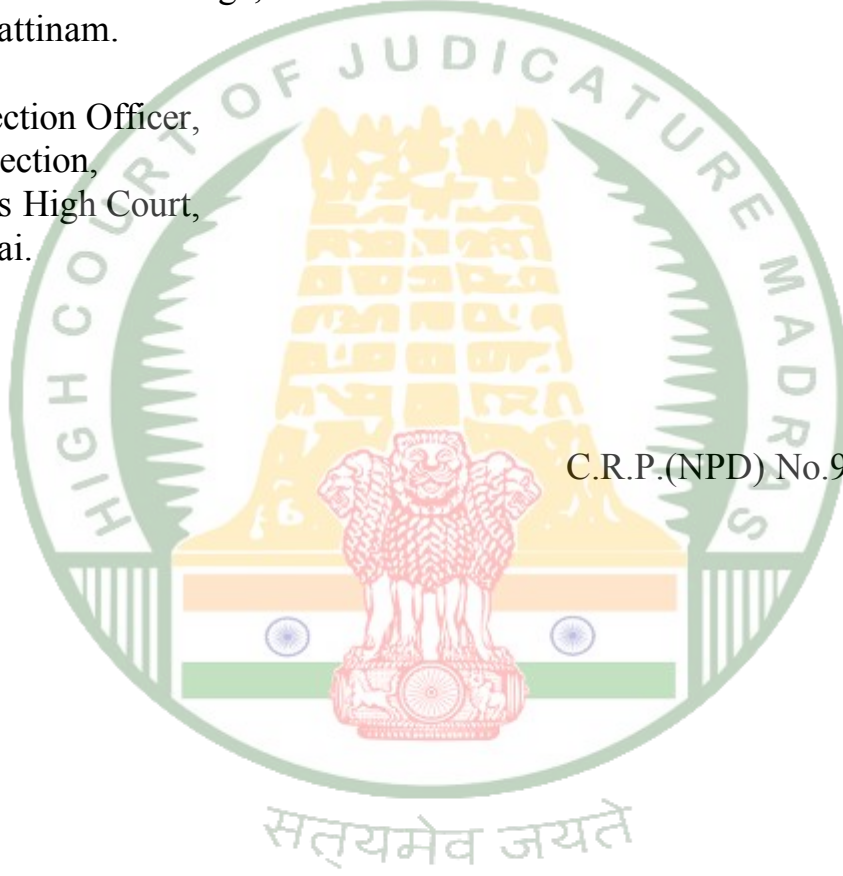
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G.K.ILANTHIRAIYAN, J.

rts

To

1. The Subordinate Judge,
Nagapattinam.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.



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