

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2021

CORAM

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

C.R.P.(NPD)No.3246 of 2018

R.Kuppusamy ... Petitioner

Vs.

1. Shanmugam
2. Rajeswari
3. Paramasivam
4. M.r.Srikanthan ... Respondents

Prayer :- Civil Revision Petition is filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 29.06.2018 passed in I.A.No.1457 of 2016 in O.S.No.143 of 2012 on the file of the District Munsif Court, Chengalpattu.

For Petitioner : Mr.K.Govi Ganesan

For Respondents

For R1 & R2 : Ms.Swetha
For Mr.S.Ramesh

For R3 & R4 : Not ready in notice

ORDER

This Civil Revision Petition is directed as against the fair and decreetal order dated 29.06.2018 passed by the learned District Munsif, Chengalpattu, in I.A.No.1457 of 2016 in O.S.No.143 of 2012, thereby dismissing the petition to condone the delay in filing the petition to restore the suit.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit in O.S.No.143 of 2012 for permanent injunction in respect of the suit property. When the suit was posted for trial on 04.08.2015, the petitioner was absent and unable to get along with the trial . Therefore, the Court below dismissed the suit for default. Thereafter, the petitioner filed petition to restore the suit along with the condone delay petition in I.A.No.1457 of 2016 to condone delay of 306 days in filing the restoration petition. The Court below dismissed the said petition, as against which the present Civil Revision Petition.

3. On perusal of the affidavit filed in support of the condone delay petition revealed that, the petitioner was fell ill and got admitted in the hospital. However the Court below dismissed the petition for the reason that the petitioner failed to produce any medical records to show that the petitioner was fell ill. This Court feels that the petitioner may be given one more opportunity to pursue his suit on merits and in accordance with law on some conditions.

4. Accordingly, the order dated 29.06.2018 passed by the learned District Munsif, Chengalpattu, in I.A.No.1457 of 2016 in O.S.No.143 of 2012, is hereby set aside on condition that, the petitioner shall pay a sum of Rs.5,000/- (Rupees five thousand only) to the respondents herein within a period of two weeks from the date of the receipt of a copy of this Order, failing which the order passed by this Court shall automatically stand cancelled. On compliance of the above said condition, the Court below viz., the learned District Munsif, Chengalpattu, is directed to restore the suit and dispose the same on merits 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.

29.07.2021

Internet : Yes

Index : Yes/No

Speaking order/Non-speaking order

rts



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To

1. The District Munsif,
Chengalpattu.
2. The Section Officer,
V.R. Section,
Madras High Court,
Chennai.

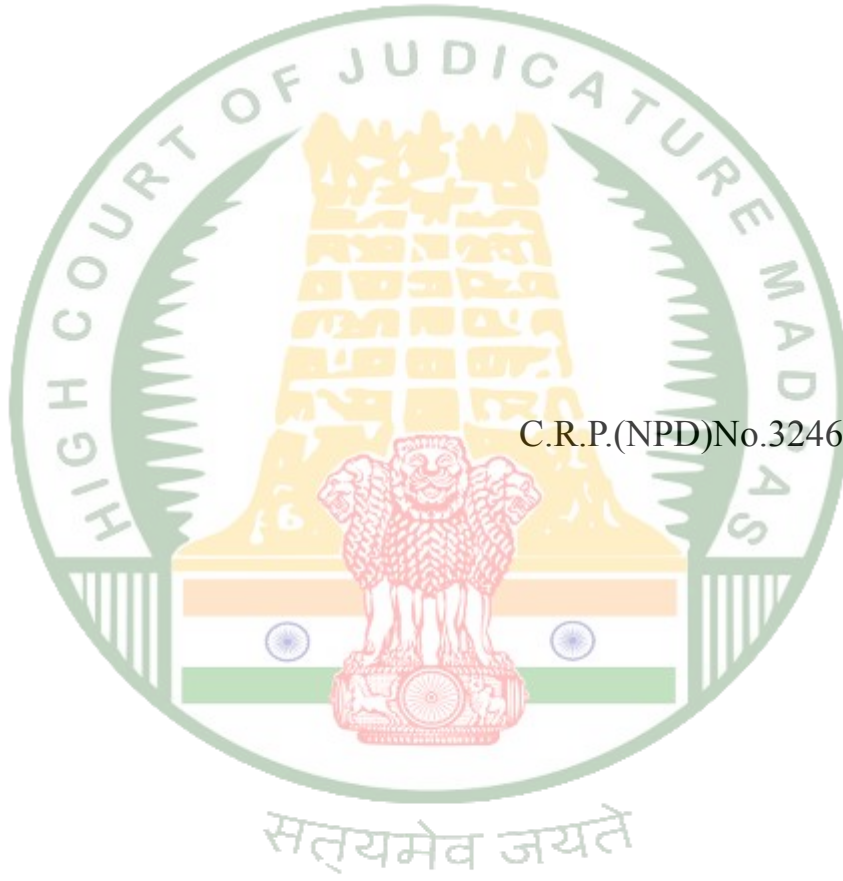


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G.K.ILANTHIRAIYAN, J.

rts



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