

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2021

CORAM

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

C.R.P.(NPD)Nos.3787 & 3789 of 2018

Vimala Manoharan

... Petitioner in  
both CRPs

Vs.

R.Sagunthala

... Respondent in  
both CRPs.

**Common Prayer :-** These Civil Revision Petitions are filed under Section 115 of C.P.C., to set aside the fair the final orders dated 14.09.2018 in I.A.Nos.133 & 134 of 2018 respectively in unnumbered O.S. in C.F.R.No.69 of 2017 on the file of the Principal District Court, Erode.

For Petitioner

in both CRPs : Mr.S.Kaithamalai Kumaran

For Respondent

in both CRPs : Mr.M.Guruprasad

**COMMON ORDER**

These Civil Revision Petitions have been filed as against the orders dated 14.09.2018, passed by the learned Principal District Judge, Erode in I.A.Nos.133 & 134 of 2018 respectively in unnumbered O.S. in

C.F.R.No.69 of 2017, thereby dismissing the petitions to condone the delay in representing the plaint.

2. The petitioner is the plaintiff and the respondent is the defendant. The petitioner filed suit for declaration and permanent injunction. The suit was filed on 10.05.2017 and the same was returned for some defects on 11.05.2017. Thereafter, the petitioner failed to represent the plaint in time and it was represented with the delay of 212 days without complying the previous return. Again on 18.01.2018, it was returned for the same defects. Therefore, the petitioner represented the plaint along with another petition to condone the delay of 67 days in representing the plaint. The trial Court dismissed both the petitions as against which the present Civil Revision Petitions.

3. On perusal of the affidavit filed in support of these petitions, the petitioner stated that she was not well due to viral fever and therefore she was advised to take complete bed rest. That apart, the case records mingled with other records as such she could not be able to re-present the

plaint in time. Whereas the respondent filed counter stating that at the relevant time, when the plaint was returned for some defects, the petitioner was appeared before the learned Judicial Magistrate, Fast Track Court-II, Erode in S.T.C.No.421 of 2016 in person. Therefore, the Court below dismissed both the petitions to condone the delay in representing the plaint.

4. It is seen from the records, the petitioner did not state any particular date on which she fell ill and bed ridden. That apart, the suit is filed for declaration declaring that the sale deed dated 12.05.2014 as null and void. Considering the facts and circumstances, this Court is of the view that the petitioner may be given one more opportunity to challenge the sale deed in the manner known to law.

5. Accordingly, the order dated 14.09.2018, passed by the learned Principal District Judge, Erode in I.A.Nos.133 & 134 of 2018 respectively in unnumbered O.S. in C.F.R.No.69 of 2017 are hereby set aside on condition that the petitioner shall pay a sum of Rs.5,000/- (Rupees five thousand only) as cost directly to the respondent, within a period of two

weeks from the date of receipt of a copy of this order, failing which this order shall automatically stand cancelled. After complying the said condition, the trial Court viz., the learned Principal District Judge, Erode is directed to number the suit, if it is otherwise in order and dispose the same within a period of twelve weeks from the date of numbering the suit.

6. With the above directions, both the Civil Revision Petition are allowed. There shall be no order as to costs.

17.06.2021

Internet : Yes

Index : Yes/No

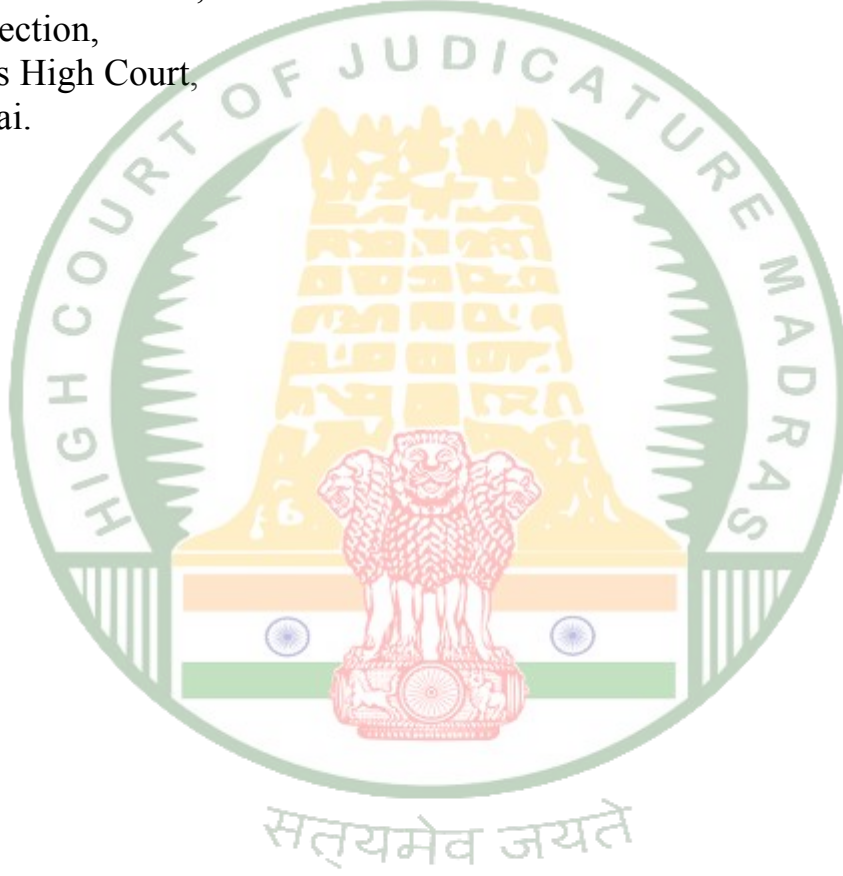
Speaking order/Non-speaking order

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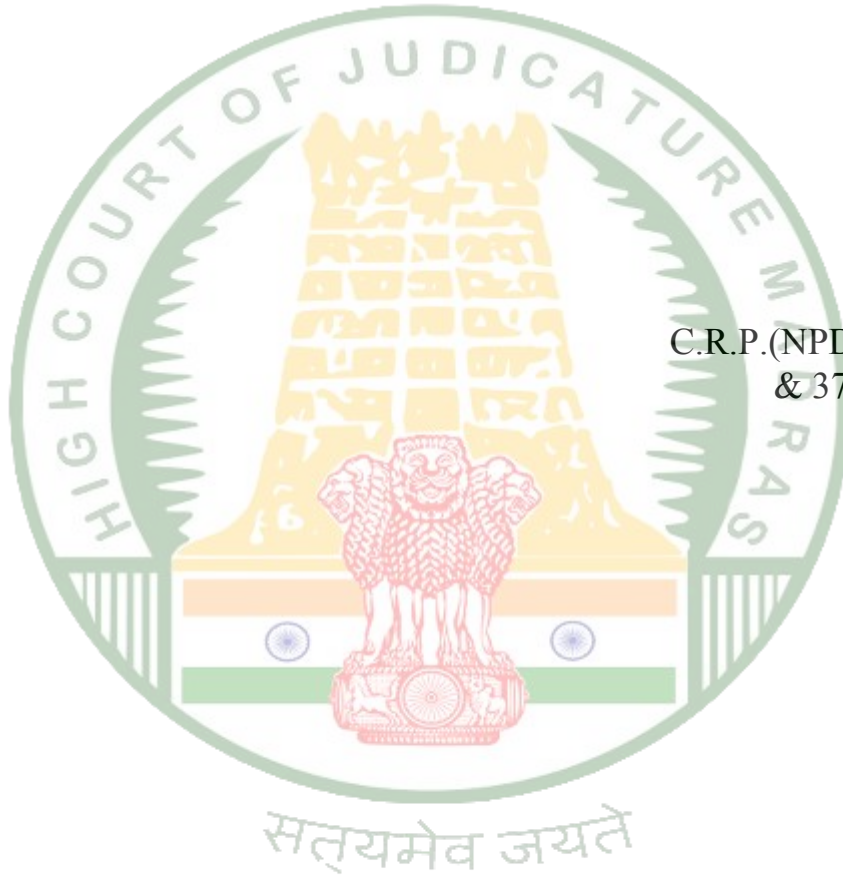
1. The Principal District Judge,  
Erode.
2. The Section Officer,  
V.R. Section,  
Madras High Court,  
Chennai.



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**G.K.ILANTHIRAIYAN, J.**

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