

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CRP (PD) No.3815 of 2018

and

CMP.No.21205 of 2018

Selvi

... Petitioner

Vs.

1. Kalaimagal
2. Chitradevi
3. Idhyavani
4. Sozhan
5. Krishnaveni

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order dated 11.10.2018 passed in I.A.No.325 of 2018 in O.S.No.72 of 2012 on the file of Additional Sub Court, Tindivanam.

For Petitioner : M/s.Meenal.R

For Respondents : M/s.R.Sripriya for
Mr.V.Raghavachari (for R1 & R2)
: No Appearance (for R5)

ORDER

This Civil Revision Petition is directed as against the fair and decretal order passed in I.A.No.325 of 2018 in O.S.No.72 of 2012 dated 11.10.2018 on the file of the learned Additional Sub Judge, Tindivanam, thereby, dismissing the petition to set aside the ex-parte order.

2. The petitioner is the second defendant and the first respondent is the plaintiff. The first respondent filed a suit for partition. While pending the suit, the petitioner being the second defendant, failed to file her written statement. Therefore, she was set ex-parte on 18.09.2013. Other defendants are none other than her own sons and daughters. They have filed their written statement and contested the suit. Unfortunately, her counsel failed to instruct her to file her written statement and as such, she did not file her written statement. She being an illiterate woman, she was not properly instructed and as such, she filed a petition to set aside the ex-parte decree. The Court below dismissed the petition only for the reason that it was filed belatedly viz., after 5 years. Now, the suit is pending for trial.

3. Considering the above facts and circumstances, the petitioner may be given one more opportunity to defend the suit. Therefore, this Civil

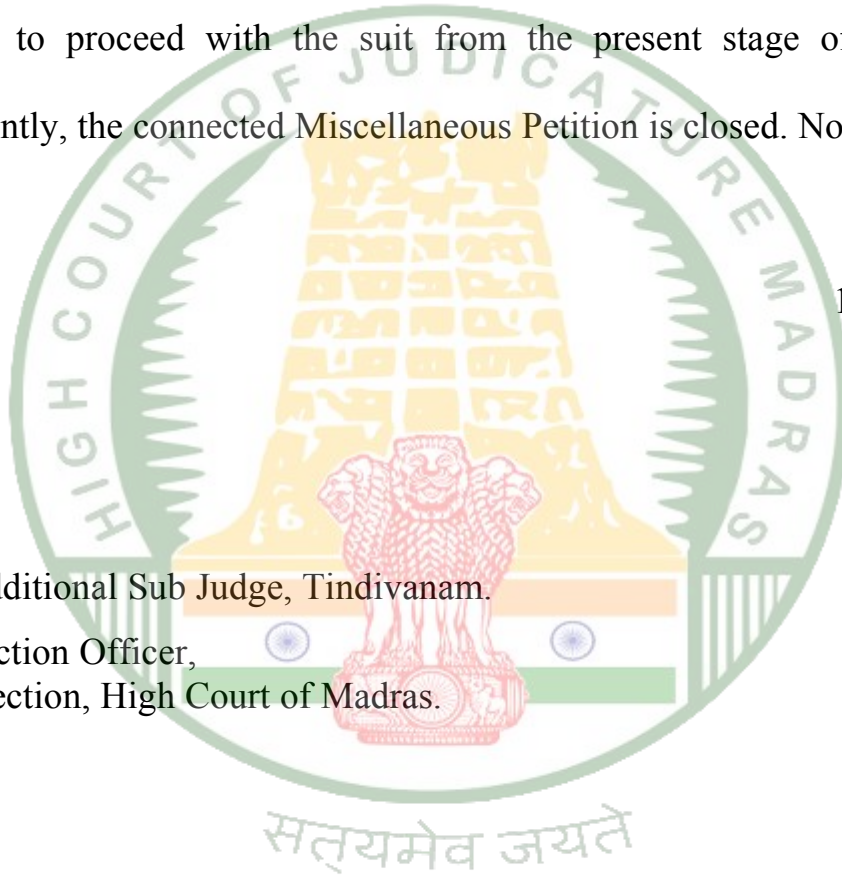
Revision Petition is allowed and the order passed in I.A.No.325 of 2018 in O.S.No.72 of 2012 is set aside on condition that the petitioner shall pay a sum of Rs.2,500/- as costs to the respondents within a period of two weeks from the date of receipt of a copy of this order, failing which this order shall stand automatically cancelled. It is made clear that the petitioner is permitted to proceed with the suit from the present stage of the suit. Consequently, the connected Miscellaneous Petition is closed. No costs.

16.04.2021

kv

To

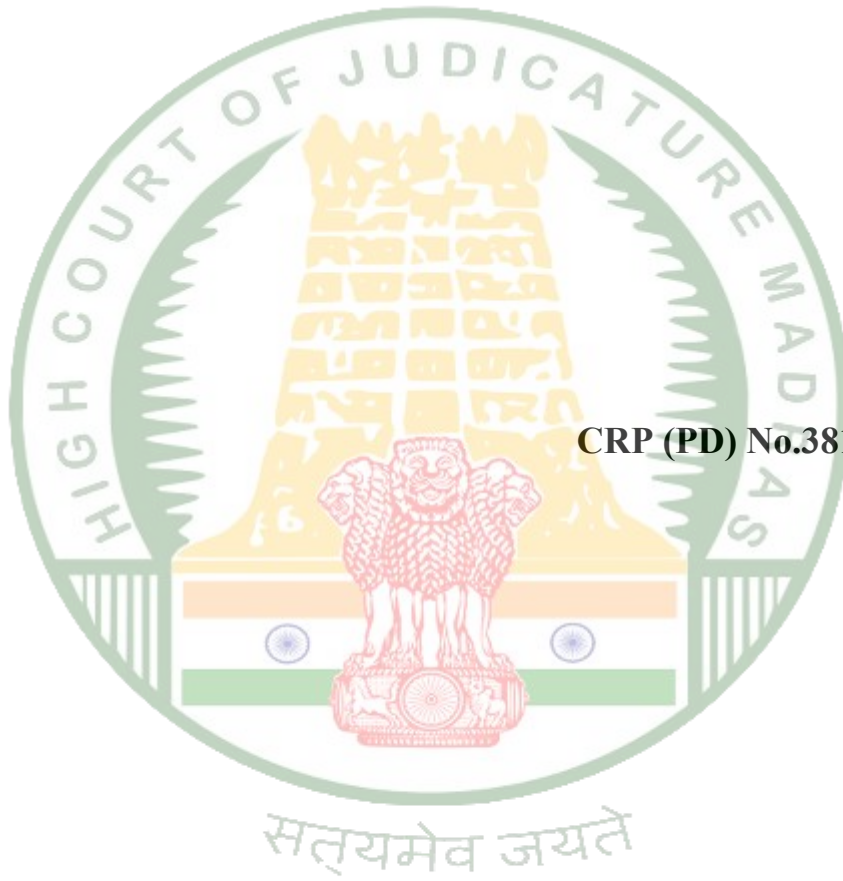
1. The Additional Sub Judge, Tindivanam.
2. The Section Officer,
V.R. Section, High Court of Madras.



WEB COPY

G.K.ILANTHIRAIYAN,J.

Kv



CRP (PD) No.3815 of 2018

WEB COPY

16.04.2021