

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(NPD) No.4129 of 2018
and C.M.P.No.22743 of 2018

1.Rajendiran

2.Mala

3.The Sub Registrar,
Sub Registrar Office, Nemali,
Arakkonam Taluk,
Vellore District.

... Petitioners

Vs

Rajeshwari

... Respondent

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order and decretal order passed in I.A.No.436 of 2017 in O.S.No.75 of 2015 on the file of the Subordinate Judge, Arakkonam dated 06.08.2018.

For Petitioners : Mr.S.Prabhu

For Respondent : Mr.K.U.Sale Murugan

ORDER

The Civil Revision Petition is filed against the order and decretal order passed in I.A.No.436 of 2017 in O.S.No.75 of 2015 on the file of the Subordinate Judge, Arakkonam dated 06.08.2018, thereby dismissing the petition to condone the delay in filing the petition to set aside the exparte decree.

2. The petitioners are the defendants and the respondent is the plaintiff. The respondent filed a suit for recovery of possession in respect of the suit property. The petitioners failed to file the written statement and as such, they were set exparte and exparte decree was passed. Therefore, the petitioners filed a petition to set aside the exparte decree with the delay of 379 days.

3. On a perusal of the affidavit filed in support of the condone delay petition, it is revealed that when the suit was posted on 09.06.2016 for filing written statement, the second petitioner herein fell ill due to viral fever. Therefore, they were not able to contact their counsel to file their written statement in the suit. Therefore, they were set exparte and exparte Judgment was passed on 12.09.2016.

4. The Court below dismissed the petition on the ground that no sufficient reasons were stated in the affidavit filed in support of the condone delay petition.

5. The suit was filed for recovery of possession and as such the petitioners may get one more opportunity to defend the suit.

6. Accordingly, the order passed in I.A.No.436 of 2017 in O.S.No.75 of 2015 on the file of the Subordinate Judge, Arakkonam dated 06.08.2018 is set aside, on condition that the petitioners are directed to pay a sum of Rs.5000/- (Rupees Five Thousand only) as costs to the respondent within a

period of **two weeks** from the date of receipt of a copy of this order, failing which, the order passed by this Court shall automatically stand cancelled. On such payment, the Court below is directed to dispose of the suit within a period of **nine months** from the date of receipt of a copy of this order.

7. Accordingly, this Civil Revision Petition is allowed. Consequently, the connected miscellaneous petition is closed. No order as to costs.

29.06.2021

Internet: Yes
Index: Yes/No
Speaking/Non speaking order
rna

To

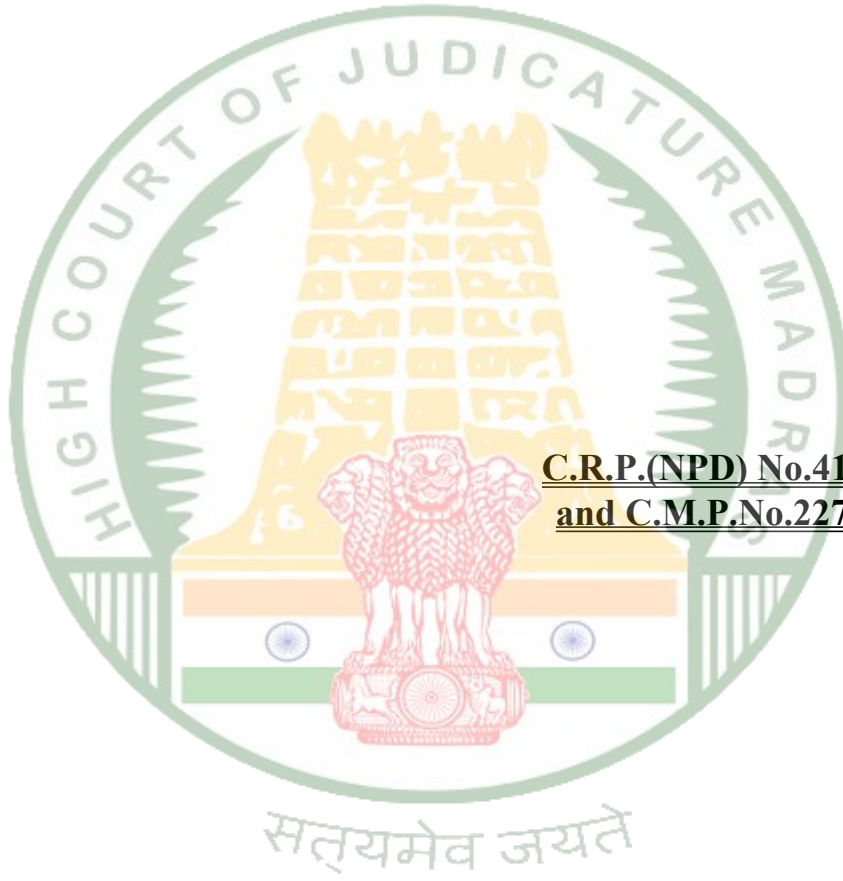
The Subordinate Judge,
Arakkonam.

सत्यमेव जयते

WEB COPY

G.K.ILANTHIRAIYAN. J,

rna



C.R.P.(NPD) No.4129 of 2018
and C.M.P.No.22743 of 2018

WEB COPY

29.06.2021