

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM

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

CRP (NPD) No.4018 of 2018
and CMP.No.22243 of 2018

K.Murali Kumar

..Petitioner

Vs.

G.Muralikrishnan

..Respondent

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure, to set aside the fair and decreetal order dated 22.10.2018 made in I.A.No.773 of 2017 in O.S.No.161 of 2014 on the file of the III Additional District and Sessions Judge, Coimbatore.

For Petitioner : Mr.T.Balaji

For Respondent : Mr.K.Govi Ganesan

सत्यमेव जयते
ORDER

This Civil Revision Petition is filed against the fair and decreetal order dated 22.10.2018 made in I.A.No.773 of 2017 in O.S.No.161 of 2014 on the file of the III Additional District and Sessions Judge, Coimbatore, thereby dismissing the petition to condone the delay in filing the petition to set aside the ex-parte decree.

2. The petitioner is the defendant in the suit filed by the respondent for declaration and injunction. The respondent filed a suit to cancel the sale deed registered as Document No.3010/2010 dated 26.08.2010. The suit was filed with Pauper O.P.No.241 of 2013. After receipt of the notice in the Pauper O.P. the petitioner took several adjournments to file his counter statement. The Pauper O.P was allowed and the petitioner was set ex-parte on 22.04.2014. Thereafter, the suit was taken on file in the suit summons. On receipt of the summons, the petitioner engaged a counsel and he filed a vakalat. Thereafter, the petitioner did not file any written statement in the suit. Therefore, he was set ex-parte on 30.01.2015. Thereafter, the suit was posted for ex-parte evidence on 01.04.2015. The suit was decreed on merits by a Judgment and Decree dated 16.10.2015. The respondent had paid requisite court fee of Rs.2,16,076/- and the decree was registered with the office of the Sub Registrar Office, Pelamedu and declared the sale deed dated 26.08.2010 as null and void.

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3. On the strength of the agreement of sale, the respondent sold the suit property by a registered Sale Deed dated 07.12.2017 in the office of the Sub Registrar Office, Pelamedu. At that juncture, the petitioner come forward with the petition to set aside the ex-parte decree with a delay of 519 days. He also

filed a written statement with the counter claim for the recovery of suit property.

4. Even according to the petitioner, the suit property was sold out by a registered Sale Deed dated 26.08.2010. Till filing of the present suit by the respondent, the petitioner did not take any steps to recover the possession from his purchase dated 26.08.2010. In fact, he also engaged a counsel and he failed to appear before the Trial Court and he was set ex-parte. After a period of four years from the date of the suit, he filed the written statement with counter claim.

5. A perusal of the affidavit filed in support of the condone delay petition reveals that after receipt of the notice in Pauper OP No.241 of 2013 on the file of the District Court, Coimbatore, he entrusted the counsel. The counsel did not inform about the status of the case citing advocates boycott as a reason. Therefore, he had suspicious over the contact of the counsel and thereafter he engaged another counsel and came to know about the ex-parte dated 16.10.2015. The reasons raised by the petitioner are not sufficient and the Court below has rightly dismissed the petition.

G.K.ILANTHIRAIYAN.J,

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6. In view of the above, this Court finds no illegality or infirmity in the order passed by the Court below. Hence, the Civil Revision Petition is dismissed. No costs. Consequently connected Miscellaneous Petition is closed.

23.04.2021

Speaking/Non-speaking order

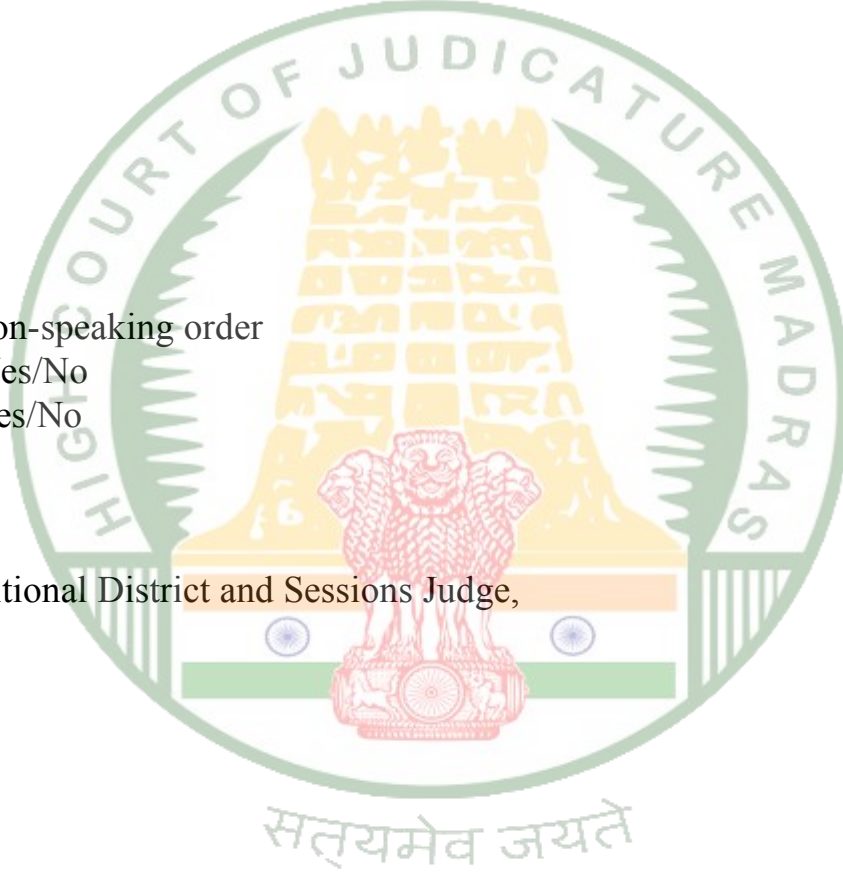
Index : Yes/No

Internet : Yes/No

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To

The III Additional District and Sessions Judge,
Coimbatore.



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