

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P (NPD) No.4183 of 2018

1. M/s.Irbaz Shoe Company, Chennai
Rep.by its Partners
Head Office situated at No.2 Kilpauk Garden Road,
Kilpauk, Chennai – 10.
 2. M/s.Irbaz Shoe Company, Chinnavarikkam
Rep.by its Partners,
Company situated at No.82, Gudiyatham Road,
Chinnavarikkam Village, Thuthipet Post,
Ambur Taluk, Vellore District.
 3. N.Aejaz Ahmed
 4. N.Irbaz Ahmed
- ... Petitioners

M/s.Textil Tapes Corporation, Chennai
Rep.by its Authorised Signatory,
R.Baskaran, aged about 46 years,
S/o.Late Rathinavel Mudaliar,
Hindu Authorised Signatory,
Situated at 14/53, V.V.Koil Street,
Chinmaya Nagar, Stage-I, Chennai.

... Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decretal order passed in I.A.No.151 of 2016 in O.S.No.6 of 2014 dated 03.11.2018 on the file of the learned III Additional District Judge, Vellore at Thiruppattur.

For Petitioners : Mr.L.Prabakar for
Mr.S.Kothandaraman

For Respondent : Mr.V.Raghavachari

ORDER

This Civil Revision Petition is filed as against the fair and decretal order passed in I.A.No.151 of 2016 in O.S.No.6 of 2014 dated 03.11.2018 on the file of the learned III Additional District Judge, Vellore at Thiruppattur, thereby allowing the petition to condone the delay in filing the application to restore the suit.

2. The petitioners are the defendants and the respondent is the plaintiff. The respondent filed a suit for recovery of money. When the suit was posted for trial on 09.02.2016, the representation of the respondent fell ill and due to severe fever, he could not appear before the Court below on that day and the suit was dismissed for default. Hence, the respondent filed a petition to restore the suit with a delay of 37 days in filing the restoration petition in I.A.No.151 of 2016. When the condone delay petition was posted for enquiry on 24.08.2017, again the respondent fell ill and as such, the petition to condone delay was dismissed for default. Immediately, the

respondent filed a petition to restore the condone delay petition in I.A.No.1 of 2018.

3. The learned counsel for the petitioners submitted that, without passing any order in I.A.No.1 of 2018 to restore the condone delay petition in I.A.No.151 of 2016, the Court below directly passed order in I.A.No.151 of 2016, thereby allowed the petition to condone delay in filing the restoration petition.

4. The learned counsel for the respondent submitted that the said I.A.No.1 of 2018 was allowed by the Court below by an order dated 31.07.2018, with costs of Rs.500/-, and after compliance of the condition imposed by the Court below, the present application was taken for enquiry and the same was allowed by an order dated 03.11.2018 on condition to pay a sum of Rs.500/- as costs. Therefore, the Court below rightly passed the order in I.A.No.151 of 2016 after allowing the petition in I.A.No.1 of 2018. Hence, this Court finds no infirmity or illegality in the order passed by the Court below.

G.K.ILANTHIRAIYAN,J.

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5. Accordingly, this Civil Revision Petition is dismissed. However, after restoration of the suit on file, the Court below is directed to dispose of the suit within a period of 12 months from the date of restoration of the suit.

No costs.

16.07.2021

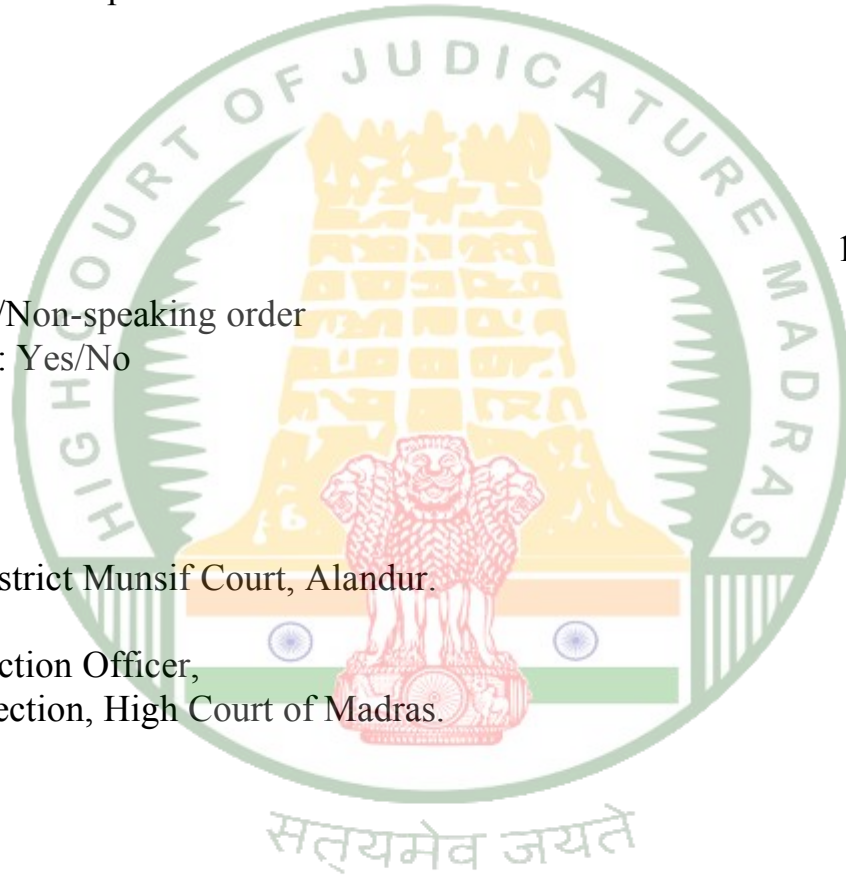
Speaking/Non-speaking order

Index : Yes/No

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To

1. The District Munsif Court, Alandur.
2. The Section Officer,
V.R. Section, High Court of Madras.



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