



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Civil Appellate Jurisdiction)

Friday, the Twenty Ninth day of January Two Thousand and Twenty One

PRESENT

The Hon'ble Mr.Justice KRISHNAN RAMASAMY

CMP(MD). No.10418 of 2019

in

CRP(MD).No.1096 of 2018

R.Muthumanikandan

...Petitioner/Appellant

Vs

1 M.Rajalakshmi

2 Minor Thenmozhi

(R2 - Minor Rep. by Her Mother and Natural Guardian
Rajalakshmi)

...Respondents/Respondents

Prayer in CMP(MD). No.10418 of 2019:-

Civil Miscellaneous Petition is filed under Order 41 Rule 21 read with of section 151 of Civil Procedure Code, praying this Hon'ble Court to recall the order dated 17.09.2019 made in CRP(MD). No.1096 of 2018.

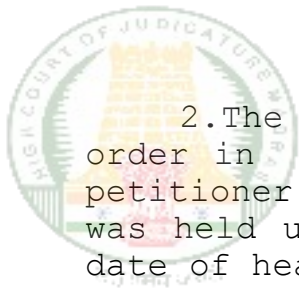
Prayer in CRP(MD).No.1096 of 2018 :

Civil Revision Petition is filed under Article 227 of the Constitution of India, against the fair and decreetal order dated 20.04.2018 made in I.A.No.346 of 2011 in H.M.O.P.No.190 of 2011 on the file of the Sub Court, Thirumangalam.

ORDER:-

Civil Miscellaneous Petition coming upon for orders on this day and upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.R.Thenmozhi Shivaperumal, Advocate for the Petitioner, this Court made the following order:

This Civil Miscellaneous Petition has been filed to recall the order passed by this Court dated 17.09.2019 in CRP(MD).No.1096 of 2018.



2.The learned counsel for the petitioner submitted that the order in CRP(MD).No.1096 of 2018 was passed in the absence of the petitioner. The learned counsel further submitted that since she was held up at other Court, she could not attend the Court on the date of hearing and prayed to recall the order dated 17.09.2019.

3.Heard the learned counsel for the petitioner. None appeared on behalf of the respondents.

4.Since it is the settled position of law that in the absence of the petitioner, the petition can be dismissed only for non-prosecution, however, the order under review was passed in a detailed manner by extracting the order of the Court below and the same was dismissed. Therefore, this Court is inclined to recall the order dated 17.09.2019.

5.Accordingly, the order dated 17.09.2019 in C.R.P(MD).No.1096 of 2019 is recalled and the petition is allowed. The Registry is directed to list the case before the Regular Court.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

TO:

The Subordinate Judge, Thirumangalam.

Copy to:

The Section Officer,
Judicial Section,
Madurai Bench of Madras High Court, Madurai.
(To list the matter before the Regular Court)

+1cc to M/s.B.Asha, Advocate Sr.No.566

Dated: 29.01.2021

ORDER:

CMP(MD). No.10418 of 2019
in
CRP(MD).No.1096 of 2018

NR (04/02/2021) 2P : 3C

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