



C.M.A.No.2056 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.06.2024

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

C.M.A.No.2056 of 2021

and

C.M.P.No.11089 of 2021

N.P.Krishnan

... Appellant

Vs.

Sola Vellalar Samugam Trust, Salem,
Rep. by its President,
V.Viyali.

(Cause title amended vide
Court order dated 03.01.2024
made in C.M.P.No.11326 of 2022 in
C.M.A.No.2056 of 2021)

... Respondent

PRAYER: Civil Miscellaneous Appeals filed under Section 43 Rule 1 (t) of C.P.C. against the fair and decreetal order dated 12.03.2020 made in I.A.No.485 of 2019 in A.S.No.61 of 2018 passed by the III Additional District Court, Salem.

For Appellants : Mr.D.Gopinathan

For Respondent : Mr.P.Dinesh Kumar



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C.M.A.No.2056 of 2020

JUDGMENT

This appeal has been filed by the defendant in the suit, who is the appellant in A.S.No.61 of 2018. Aggrieved by the order dated 12.03.2020 passed by the III Additional District Court, Salem in I.A.No.485 of 2019 in A.S.No.61 of 2018, dismissing the first appeal in A.S.No.61 of 2018 on the ground that the appellant has not complied with the conditional order dated 27.08.2019 wherein the appellant was directed to furnish the certified copy of the decree passed in O.S.No.588 of 2018 on the file of the Principal Sub Court, Salem.

2. The appellant has filed this appeal by stating that for no fault of the appellant, the learned III Additional District Court, Salem has passed the impugned order despite the fact that the certified copy of the decree was made available to the appellant only after passing of the impugned order i.e., on 22.10.2019. The said contention is also not disputed by the learned counsel for the respondent. In view of the admitted fact that it was not possible for the appellant to produce the certified copy of the decree passed by the Trial Court on or before the date fixed under the conditional order passed by the III Additional District Court, Salem, this Court is of the



C.M.A.No.2056 of 2024

considered view that sufficient cause has been shown by the appellant for allowing this appeal for restoring the first appeal in A.S.No.61 of 2018 to the file of the III Additional District Court, Salem.

3. For the foregoing reasons, the impugned order dated 12.03.2020 passed by the III Additional District Court, Salem, in I.A.No.485 of 2019 in A.S.No.61 of 2018 is hereby set aside and this appeal is allowed by restoring the first appeal pending before the III Additional District Court, Salem in A.S.No.61 of 2018. No Costs. Consequently, the connected miscellaneous petition is closed.

25.06.2024

Index : Yes/No
Speaking Order : Yes / No
Neutral Citation Case: Yes / No
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To

1. The III Additional District Court, Salem.
2. The Section officer, Record Section, High Court of Madras.



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C.M.A.No.2056 of 2021

ABDUL QUDDHOSE. J.,

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C.M.A.No.2056 of 2021

25.06.2024