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C.R.P.(NPD).No.902 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.06.2024

Coram

THE HON'BLE MR JUSTICE V. LAKSHMINARAYANAN

C.R.P.(NPD).No.902 of 2023

1.P.Delliraman

2.V.Shankar

3.P.Selvakumar

... Petitioners

-Versus-

P.Damodharan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order 30th March 2021 made in I.A.No.01 of 2021 in A.S.No.178 of 2017 in O.S.No.16 of 2016 on the file of the I Additional District and Sessions Judge at Vellore.

For Petitioners : Mr.S.Gunasekar

ORDER

This civil revision petition has been filed against the order of remand passed by the learned I Additional District and Sessions Judge, Vellore in A.S.No.178 of 2017 dated 30.03.2021. The said first appeal had been presented before the learned First Additional District and Sessions Judge, Vellore out of the order passed by the learned Subordinate Judge at Vellore in



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O.S.No.16 of 2016 dated 05.12.2016.

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2. The learned I Additional District and Sessions Judge, Vellore has exercised the power under Order XLI Rule 23 and remanded the suit for fresh disposal to the Subordinate Judge. This order is sought to be revised under Article 227 of the Constitution of India.

3. An order of remand in terms of Order XLI Rule 23 is not revisable but the remedy as against such an order is only a civil miscellaneous appeal in terms of section 104 read with Order XLIII Rule 1(u). Since an appeal is maintainable, I am not in a position to revise the order.

4. Permission is granted to the civil revision petitioners to convert this civil revision petition into a civil miscellaneous appeal. I notice from the judgement that the appeal was disposed of on 30.03.2021. But the copy application itself was filed on 20.06.2022 and the civil revision petition was filed before this Court on 14.09.2022.

5. Therefore, while converting this revision into civil miscellaneous appeal, if the appeal is out of time, Registry shall call upon the petitioners to file



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an application under Section 5 of the Limitation Act.

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6. With the above directions, this civil revision petition is disposed of. No costs.

28.06.2024

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Index : yes / no

Neutral Citation : yes / no

Speaking / Non Speaking Order

To

1.The Additional District and Sessions Judge at Vellore.

2.The Subordinate Judge, Vellore



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V.LAKSHMINARAYANAN, J.

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