



C.R.P.NPD(MD)No.560 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

CORAM

THE HON'BLE MR.JUSTICE MUMMINENI SUDHEER KUMAR

C.R.P.NPD(MD).No.560 of 2021

&

C.M.P(MD).No.3019 of 2021

1.R.Baskaran

2.B.Malarvizhi

... Petitioners

Vs.

K.Sabdarishi

.. Respondent

Prayer: Civil Revision Petition filed under Section 115 of Code of Civil Procedure against the fair and decreetal order dated 25.10.2016 made in I.A.No.1350 of 2014 in O.S.No.637 of 2012 on the file of the II Additional Subordinate Judge, Tiruchirappalli.

For Petitioners : Mr.K.Prabhakar

For Respondent : Mr.V.George Raja



C.R.P.NPD(MD)No.560 of 2021

WEB COPY

ORDER

This Civil Revision Petition is directed against an order dated 25.10.2016 passed in I.A.No.1350 of 2014 in O.S.No.637 of 2012. The said application was filed by the petitioner seeking condonation of delay of 367 days in filing the petition under Order 9 Rule 13 of CPC to set aside the exparte decree passed in O.S.NO.637 of 2012. Once the application is dismissed for default, the petitioner has a remedy of filing an application under Order 9 Rule 7 of CPC. But, the petitioner instead of availing such remedy approached this Court by filing the present Civil Revision Petition under Section 115 of Code of Civil Procedure.

2. The order under revision is passed for default of the petitioner or his counsel in appearing before the court to enable the court to adjudicate the matter on merits. The matter is not decided by the learned trial court on merits, and hence this Court is not inclined to go into the validity of the said default order and accordingly, the Civil Revision Petition is dismissed, leaving it open to the petitioner to file appropriate application under Order 9



C.R.P.NPD(MD)No.560 of 2021

WEB COPY

Rule 7 of CPC to restore the said I.A.No. 1350 of 2014 before the appropriate court and to pursue the same. Further, it is made clear that in the event of filing any such application, the period spent in filing this Civil Revision Petition and till its disposal shall be excluded while considering the petition. No costs. Consequently, connected Civil Miscellaneous Appeal is closed.

26.03.2024.

NCC : Yes/No

Internet : Yes

kpr

To

The II Additional Subordinate Judge, Tiruchirappalli.



WEB COPY



C.R.P.NPD(MD)No.560 of 2021

MUMMINENI SUDHEER KUMAR, J.

kpr

C.R.P.NPD(MD).No.560 of 2021
&
C.M.P(MD).No.3019 of 2021

26.03.2024