

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).14364/2005

(From the judgement and order dated 27/08/2004 in CRP No. 1149/2004 of The
HIGH COURT OF MADRAS)

A. MANICKAM

Petitioner(s)

VERSUS

MUTHAMILSELVAN & ORS.

Respondent(s)

(With appln(s) for c/delay in filing SLP,directions,c/delay in refiling SLP and office
report))

Date: 15/02/2007 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE TARUN CHATTERJEE

HON'BLE MR. JUSTICE DALVEER BHANDARI

For Petitioner(s)

Mr. Chandra Chur, Adv.

Mr. M.Purushotam, Adv.

Mr. Neeraj Shekhar, Adv.

Mr. Mohan Pandey,Adv.

For Respondent(s)

Mr. Siddarath Dave, Adv.

Mr.Senthil Jagadeesan,Adv.

Mr. S.Gowthaman, Adv.

For M/S.Mahalakshmi Balaji & Co. ,Adv

UPON hearing counsel the Court made the following

O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

There will be no order as to costs.

(Ganga Thakur)

(Khushi Ram)

P.S.to Registrar

Court Master

Signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3414 OF 2007

(Arising out of SLP(C) No.14364/05)

A. MANICKAM

...APPELLANT (

s)

Versus

MUTHAMILSELVAN & ORS.

...RESPONDENT (

s)

O R D E R

Leave granted.

This appeal is directed against the order passed by the High

Court of Madras at Madurai Bench in civil revision Petition No. 1149/2004

by which the application under Article 227 of the Constitution of India,

which was filed against a decree passed by the Civil Court, namely, Nellore

District Munsif Court was allowed.

In our view, the application under Article 227 of the Constitution (i.e. Civil Revision Case) was not maintainable against t

he original decree of the Civil Court as an appeal lay before the Appellate Court

under Section 96 of the Code of Civil Procedure. We therefore set aside the

impugned order of the High Court. It will, however, be open to t

he respondents to file an appeal before the appropriate Appellate Court against

the original decree with an application for condonation of delay in filing the

same. If such an appeal is filed with an application for condonation of

delay, the application for condonation of delay shall be decided by the

Appellate Court by taking liberal view and keeping in mind that the

respondents had proceeded bonafide in filing the civil revision before the

High Court. We, however, make it clear that in case delay in filing the

appeal is condoned, the Appellate Court shall decide the appeal on merits

without being influenced by any of the findings and or observations made in

the impugned order which decided the civil revision case.

The appeal is allowed to the extent indicated above. There will

be no order as to costs.

.....J.

(TARUN CHATTERJEE)

.....J.

(DALVEER BHANDARI)

New Delhi,

February 15, 2007.