

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2017

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P. (NPD) No.100 of 2017
and
C.M.P No.492 of 2017

D. Amsaveni

... Petitioner

VS.

1. A. Chandran

2. M/s.Akash Benefit Fund Ltd.,
Having office at
Corporation Complex
Near Kodambakkam Power House
Arcot Road, Chennai - 24.

... Respondents

Civil Revision Petition filed under Section 115 of the Civil Procedure Code to set aside the order passed in E.A. No. 4099 of 2016 in E.P. No. 1512 of 2015 on the file of X Assistant City Civil Judge, Chennai in O.S. No. 8989 of 2011 on the file of the VII Assistant City Civil Court, Chennai dated 14.11.2016.

For Petitioner : Mr. M.P. Saravanan

For respondents : Mr. T. Viswanatha Rao for R1

No Appearance for R2

ORDER

This Civil Revision Petition arises against the fair and decretal order passed in E.A. No. 4099 of 2016 in E.P. No. 1512 of 2015 on the file of X Assistant City Civil Judge, Chennai in O.S. No. 8989 of 2011 on the file of the VII Assistant City Civil Court, Chennai dated 14.11.2016.

2. Learned counsel for the petitioner submitted that the suit in O.S. No. 8989 of 2011, was filed before the VII Assistant City Civil Court, Chennai, by the 1st respondent against the petitioner, for delivery of possession. The suit was decreed by the trial court on 04.08.2014. The petitioner did not comply with the said order, since she is going to file an appeal suit. In the meantime, the 1st respondent filed an Execution Petition and the same was allowed on 25.11.2016, directing the petitioner to hand over possession within one month. It is the contention of petitioner that the reopen petition filed by the petitioner in E.A. No. 4099 of 2016 in E.P. No. 1512 of 2015 on the file of X Assistant City Civil Judge, Chennai and the same was allowed on 20.10.2016, with a condition to pay a cost of Rs.1000/-. Since, the petitioner could not comply with the order, within the prescribed time, the said application was dismissed on

14.11.2016. Against the same, this Civil Revision Petition is filed.

3. Learned counsel for the respondent submitted that since the cost has not been paid by the petitioner, the re-open petition filed by the petitioner was dismissed and the Execution Petition was allowed. However, learned counsel for the respondent fairly submitted has no objection, in allowing this petition, on payment of heavy cost on the petitioner.

4. Heard Mr. M.P. Saravanan, learned counsel for the petitioner and Mr. T. Viswanatha Rao for the 1st respondent.

5. Learned counsel for the petitioner also agreed to pay the cost, as imposed by this Court. In the light of the submissions made by both the parties, I am inclined to set aside the order passed in E.A. No. 4099 of 2016 in E.P. No. 1512 of 2015 on the file of X Assistant City Civil Judge, Chennai in O.S. No. 8989 of 2011 on the file of the VII Assistant City Civil Court, Chennai dated 14.11.2016, on payment of cost of Rs.3000/-, to the first respondent herein, within a period of two weeks from the date of receipt of a copy of this order.

D.KRISHNAKUMAR, J.

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6. This Civil Revision Petition is allowed, on the above terms. Consequently, the Connected Miscellaneous Petition is closed.
No order as to costs.

23.03.2017

Index : yes / no

Speaking order/ Non speaking order

avr

To

1. The X Assistant City Civil Judge,
Chennai
2. The VII Assistant City Civil Court,
Chennai.

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