

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

C.R.P.(NPD).No.3482 of 2017

T.Maharajan

Petitioner

Vs.

1. L.Maheswari

2. N.Lakshmipathy

Respondents

PRAYER: Civil Revision Petition filed under Section 115 of C.P.C., against the Fair and Decreetal Order dated 04.07.2017 made in I.A No.1675 of 2017 in O.S.No.2209 of 2012 on the file of the learned XVII Assistant Judge, City Civil Court, Chennai, in dismissing the payment out application.

For Petitioner : Mr. N.Jayabalan

For Respondents : Mr.P.B.Ramanujam

ORDER

The petitioner has filed this Civil Revision Petition to set aside the order dated 04.07.2017 made in I.A No.1675 of 2017 in O.S. No.2209 of 2012 on the file of the learned XVII Judge City Civil Court, Chennai.

2. By challenging the said judgment and decree the respondent herein has filed A.S.No.204 of 2014 on the file of the learned XVIII Additional City Civil Judge, Singaravelar Maligai, Chennai.

3. Further, the respondent has preferred second appeal in S.A.No.604 of 2016 on the file of this Court and the same was dismissed on 01.08.2016. In the aforesaid appeal suit, the appellate court has directed the respondents to deposit the cost of Rs.20,698/- to the credit of the suit. The respondent/Defendant deposited the said amount of Rs.20,698/- to the credit of the above said suit and the same was recorded. Subsequently, the said appeal filed by the respondent in S.A.No.604 of 2016 was dismissed and hence filed the application in I.A.No.1675 of 2017 on the file of XVII Judge, City Civil Court, Chennai.

4. Respondent has no objection to withdraw the above said amount. In view of the no objection made by the learned counsel for the respondent, the trial court has dismissed the application by stating that the conditional order passed by the trial court by holding that it has no jurisdiction to relax the conditional order to consider the claim made by the petitioner. Challenging the said order, the petitioner has preferred the present revision petition before this Court.

5. Mr.P.B.Ramanujam, learned counsel takes notice for the respondents and filed vakalat before this Court.

6. By consent, when the matter is taken up for final disposal, the learned counsel for the respondents has no objection to allow the application filed by the revision petitioner.

7. The learned counsel for the respondents has also made the submissions before the court below by stating that he has no objection in allowing the said application. Hence, the order passed in I.A.No.1675 of

D. KRISHNAKUMAR J.

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2017 dated 04.07.2017 is liable to be set aside and consequently, application allowed.

8. In view of the submissions made by both the learned counsel for the parties, this Court has no hesitation to set aside the order passed by the Court below in I.A.No.1675 of 2017 dated 04.07.2017. Accordingly, this Civil Revision Petition is allowed. No costs.

09.10.2017

Index: Yes/No

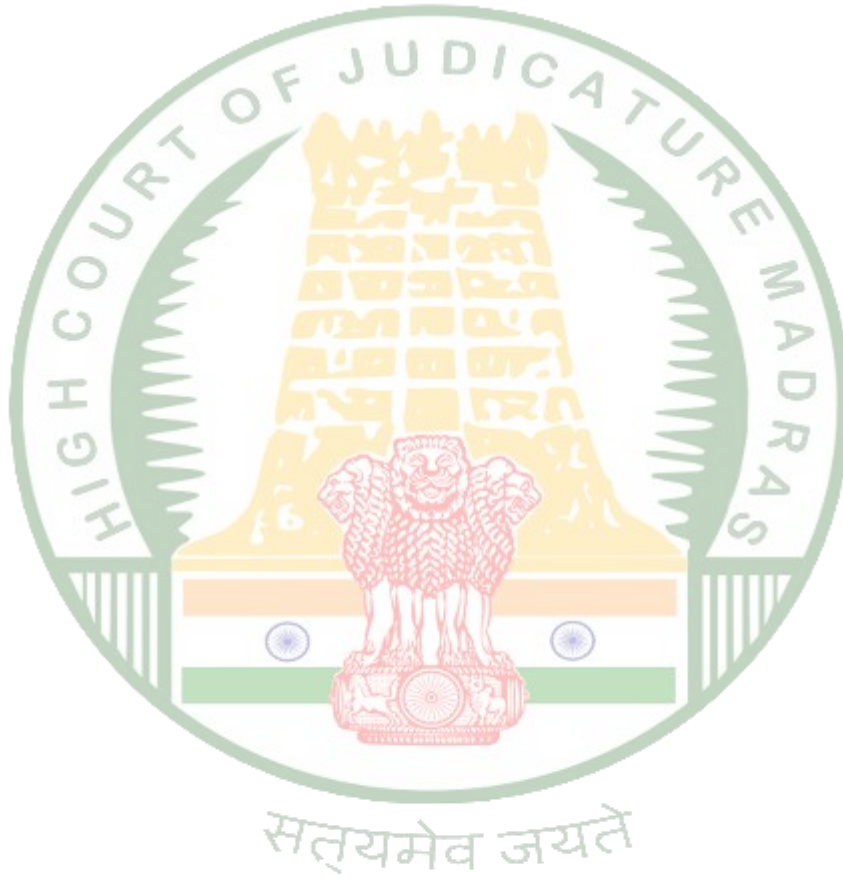
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To
XVII Judge,
City Civil Court,
Chennai.

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