

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2017

CORAM

THE HON'BLE MR. JUSTICE **D. KRISHNAKUMAR**

CRP.(PD).No.4478 of 2017
and CMP.No.21142 of 2017

D.Komala

..Petitioner

Vs.

S.D.Ramalingam

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India to set aside the order and decree in IA.No.10 of 2017 in OS.No.1703 of 2015 dated 12.06.2017 on the file of XIX Additional District Judge, FAC XVIII Additional Court at Chennai.

For petitioner : Mr.M.Aswin

ORDER:

According to the petitioner, the respondent has filed a suit in OS.No.1703 of 2015 on the file of the learned XVIII Additional City Civil Judge, Chennai against the revision petitioner. In the aforesaid suit, the revision petitioner has filed an application

in IA.No.10 of 2017 to recall and reopen the evidence of plaintiff stating that due to some reason, she could not able to present herself on the day when the plaintiff was cross examined. The said application was allowed on 28.02.2017 on condition that the revision petitioner shall pay a cost of Rs.4,000/- on or before 10.06.2017. The revision petitioner could not mobilise the fund. Therefore, the revision petitioner was not in a position to pay the cost within the time. And also she could not file an application seeking for extension of time. But the revision petitioner has filed the present Civil Revision Petition against the dismissal order dated 12.06.2017 passed by the court below.

2. At this stage, the revision petitioner has admitted that she has not filed an application for extension of time before the court below under the provisions of the Code of Civil Procedure.

3. In view of the submissions made by the learned counsel for the petitioner, this Court is not inclined to entertain the Civil Revision Petition. However, liberty is granted to the revision petitioner to file an application before the court below under the provisions of the Act.

4. If any such application is made, the trial court has to consider the said application in accordance with law.

5. The Civil Revision Petition is dismissed with above observations. No costs. Consequently, the connected miscellaneous petition is closed.

08.12.2017

Speaking / Non Speaking order

Index :Yes/No

Internet :Yes/No

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Note: Issue order copy on 11.12.2017



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D.KRISHNAKUMAR.J,

lok

To
The XIX Additional District Judge,
FAC XVIII Additional Court,
Chennai.



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