

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(NPD)No.2135 of 2008
&
M.P.No.1 of 2008

Sundari

.. Petitioner

Vs.

1.The Hussainy Trust,
Rep. by its Secretary Nazim Ali R.Currimbhoy,

2.M.Rani

3.R.Rama

.. Respondents

PRAYER: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the fair and decreetal order dated 16.11.2007 made in M.P.No.2145 of 2006 in Ejt.Suit.No.22 of 2005 on the file of the II Judge, Small Causes Court, Chennai.

For Petitioner

:M/s.A.Karthika Ashok

For R1

: Mr.K.Abdul Owais,
For Mr.A.Abdul Ravoof

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ORDER

This civil revision petition is filed against the fair and decreetal order dated 16.11.2007 made in M.P.No.2145 of 2006 in Ejt.Suit.No.22 of 2005 on the file of the II Judge, Small Causes Court, Chennai.

2. The petitioner is the third defendant, first respondent is the plaintiff and respondents 2 and 3 are the defendants 1 and 2 in Eject.No.22 of 2005. The said suit was filed by the first respondent against second respondent, third respondent and the petitioner.

3. The petitioner filed written statement on 26.12.2005 and subsequently did not contest the suit. The petitioner and two others were set exparte and subsequently exparte decree was passed on 07.02.2006.

4. The petitioner filed an application in M.P.No.2145 of 2006 to condone the delay of 154 days in filing the petition to set aside the exparte decree passed on 07.02.2006 and another application to set aside the above said exparte decree .

5. According to the learned counsel for the petitioner, petitioner was suffering from viral fever and Doctor advised her to take rest for a period of two months. In the circumstances, she could neither contact the advocate nor conduct the case.

6. The learned Judge taking note of the fact that the second respondent is the original statutory tenant, has not filed any written statement and also considering the submissions of the second respondent that the suit premises was handed over to the third respondent and petitioner and also since the petitioner has not given reason for condoning the delay of 154 days, dismissed the application on the above said grounds.

7. Against the said order dated 16.11.2007, made in M.P.No.2145 of 2006 in Ejt.S.No.22 of 2005, the present civil revision petition has been filed by the petitioner.

8. When the matter was taken up for hearing on 20.07.2017, there was no representation on behalf of the petitioner. Hence, the matter was posted for dismissal on 21.07.2017.

9. When the petition was taken up for hearing the counsel for parties are present. Heard the learned counsel for both sides and perused the materials on record.

10. Mr.K.Abdul Owais, learned counsel for Mr.Abdul Ravoof, the learned counsel appearing for the first respondent submitted that the petitioner has vacated the premises and handed over the suit premises to the first respondent. Hence nothing survives in the civil revision petition. This submission is not disputed by counsel for petitioner.

11. Accordingly, recording the submissions of the learned counsel appearing for the first respondent, the civil revision petition is dismissed as infructuous. No costs. Consequently, connected miscellaneous petition is closed.

21.07.2017

Index : Yes/No

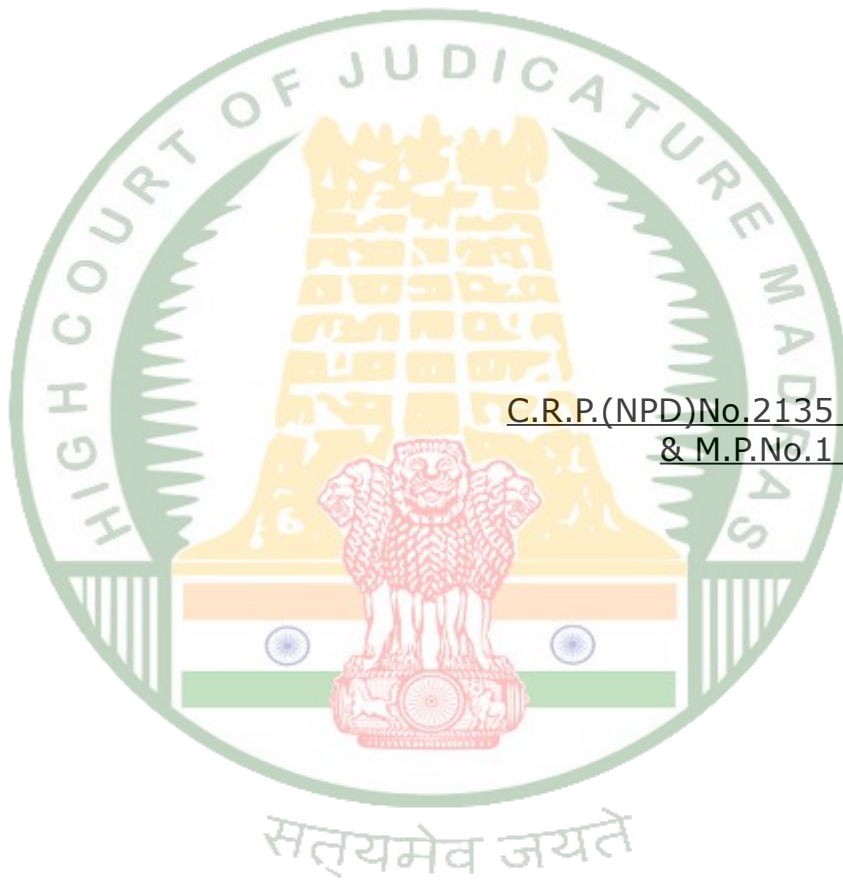
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To

The II Judge,
Small Causes Court,
Chennai.

V.M.VELUMANI, J.

mfa



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