

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2017

CORAM :

THE HONOURABLE MR. JUSTICE M. GOVINDARAJ

C.R.P.(NPD) Nos.853 & 854 of 2017
and
C.M.P.No.4220 of 2017

A.Natarajan ... Petitioner in both the CRPs'

Vs.

P.G.Jagadeesan ... Respondent in both the CRPs'

PRAYER in C.R.P.(NPD) No.853 of 2017: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, 1908, to set aside the order dated 04.01.2017 made in M.P.No.555 of 2016 in R.C.O.P.No.1803 of 2014 on the file of the XV Small Causes Court, Chennai by allowing this Civil Revision Petition.

PRAYER in C.R.P.(NPD) No.854 of 2017: Civil Revision Petition is filed under Section 115 of Civil Procedure Code, 1908, to set aside the order dated 04.01.2017 made in M.P.No.556 of 2016 in R.C.O.P.No.1803 of 2014 on the file of the XV Small Causes Court, Chennai by allowing this Civil Revision Petition.

For Petitioner : Mr.T.R.Udaya Kumar

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ORDER

These Civil Revision Petitions have been filed against the order dated 04.01.2017 passed in M.P.Nos.555 of 2016 and 556 of 2016 respectively in R.C.O.P.No.1803 of 2014. The petitioner has filed the petition in M.P.No.555 of 2016 under Section 5 of Limitation Act, to condone the delay of 113 days in filing the petition to set aside the exparte decree. The other petition in M.P.No.556 of 2016 is filed under Rule 11 and 12 of T.N. Buildings (Lease and Rent) Control Act, for setting aside the exparte decree.

2.Though these Civil Revision Petitions are arising out of impugned orders passed in the Rent Control proceedings, the petitioner had stated that he fell ill during 13.06.2016 and could not meet the counsel for more than three months. After recovery, he contacted the counsel during the last week of October 2016 and thereafter he came to know about the status of the case. Immediately, after knowing that he filed these petitions, one to condone the delay and another to set aside the exparte order.

3.The reasons given by the petitioner were totally denied

by the respondent and the respondent would submit that the petitioner was hale and healthy and was regularly looking after the business in the petitioner's premises. The above said petitions have been filed to delay the proceedings.

4.The Tribunal below after appreciating the facts and circumstances of the case found that the petitioner has not established his *bona fide* and the petitions are devoid of merits and therefore dismissed both the petitions, which were filed to condone the delay and set aside the exparte order of dismissal passed under Rule 11 and 12 of T.N. Buildings (Lease and Rent) Control Act.

5.Record of proceedings shows that Notice of Motion was ordered and the notice was served on respondent on 18.03.2017 and the private notice was served by the learned counsel for the petitioner on 15.03.2017. In spite of the same, the respondent has not appeared before this Court.

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6.On this day, when the matter is taken up for hearing, the learned counsel for the petitioner has verified with the registry and stated that no vakalat has been filed and the respondent has not

entered appearance.

7.Considering the facts and circumstances of the case, instead of keeping the matter pending, it is considered that the case of the petitioner shall be decided on merits, without harping on technicalities, in view of the Judgments of Hon'ble Supreme Court. Accordingly, the orders passed by the Tribunal below in M.P.No.555 of 2016 and M.P.No.556 of 2016 dated 04.01.2017 are set aside. Consequently, the above petitions stand allowed.

8.In the result, both the Civil Revision Petitions are allowed and further a direction is issued to the Tribunal to dispose of the eviction petition against R.C.O.P.No.1803 of 2016 on merits, within a period of three months from the date of receipt of a copy of this order.

9.With these observations, these Civil Revision Petitions are disposed of. No Costs. Consequently, connected Miscellaneous Petition is closed.

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Speaking order/Non-speaking order
Index: Yes/No

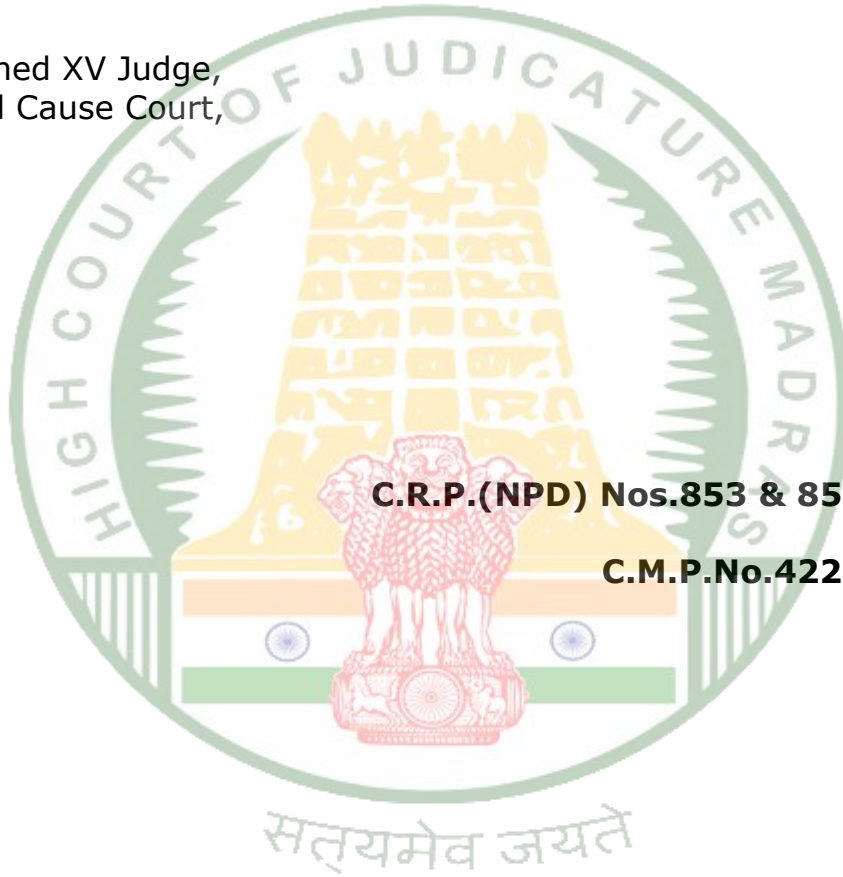
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M.GOVINDARAJ, J.

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To

The learned XV Judge,
XV Small Cause Court,
Chennai.



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