

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2018

CORAM:

THE HONOURABLE MR. JUSTICE D. KRISHNAKUMAR

CRP(PD).No.687 of 2018
and CMP.No.3575 of 2018

B.Omprakash varma

.. Petitioner

Vs

1.Ragu Baskar
 2.Vijayalakshmi @ Rani
 3.K.P.Choodamani
 4.R.S.Thembavani
 5.R.S.Kameswaran
 6.R.S.Yuvaneswaran
 7.R.S.Panchami
 8.Senghilakshmi

.. Respondents

PRAYER

Civil Revision Petition filed under Section 115 of the Civil Procedure Code against the docket order dated 06.02.2018 passed in EA.No.120 of 2015 in EP.No.4502 of 2014 in OS.No.4646 of 2001 on the file of the X-Assistant City Civil Court, Chennai.

For Petitioner : Mr.T.R.Sundaram

For Respondents : Mr.T.Velumani for R1 & R2
 undertakes to file vakalat
 : R3 to R8 - Given up

ORDER

Today, by consent of both the parties, the Civil Revision Petition is taken up for final disposal itself. Mr.T.Velumani, the learned counsel appearing for the first and second respondents undertakes to file vakalat today itself. The learned counsel for the petitioner has given up notice to respondents 3 to 8.

2. The learned counsel for the revision petitioner would submit that in EA.No.120 of 2015 in EP.No.4502 of 2014 in OS.No.4646 of 2001, the matter has been posed on 06.02.2018 for cross-examination of RW1. On that day, the revision petitioner appeared before the trial court and the counsel for the revision petitioner requested adjournment stating that a Transfer OP has been filed on 24.01.2018. But the court below without considering the request, closed the cross-examination of RW1 and passed a docket order. Challenging the aforesaid docket order, the revision petitioner has preferred the present Civil Revision Petition before this Court.

3. The learned counsel appearing for the first and second respondents would submit that on the particular day, the revision

petitioner, with an intention to delay the execution proceedings, has not appeared before the court below when the matter was not called. Therefore, the court below has rightly passed an order by closing the evidence of RW1 and posted for further evidence on the side of the respondents.

4. During the course of arguments, the learned counsel for the revision petitioner undertakes before this Court, if an opportunity is granted to the revision petitioner / RW1 to appear before the court below to let in evidence for cross examination on a particular day, he will appear on that day.

5. The learned counsel for the respondents would submit that in view of the undertaking made by the learned counsel for the revision petitioner, an opportunity may be granted. But, if the revision petitioner do not cooperate on that day, liberty may be granted to the court below to proceed in accordance with law.

6. By recording the aforesaid submissions of both sides, this Court is inclined to pass the following orders.

(i) The docket order dated 06.02.2018 passed in EA.No.120

of 2015 in EP.No.4502 of 2014 in OS.No.4646 of 2001 on the file of the X Assistant Judge, City Civil Court, Chennai is set aside.

(ii) As per the undertaking of the revision petitioner / RW1, the revision petitioner is directed to appear before the court below for let in evidence for cross-examination on 01.03.2018. In default, the court below shall proceed with the execution proceedings in EP.No.4502 of 2014.

(iii) The learned counsel for the respondents also shall cooperate for cross-examination of RW1 on the same day.

7. In the light of the above, the Civil Revision Petition is allowed with above directions. Consequently, the connected miscellaneous petition is closed. No costs.

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22.02.2018

Speaking/Non-Speaking order

Index :Yes/No

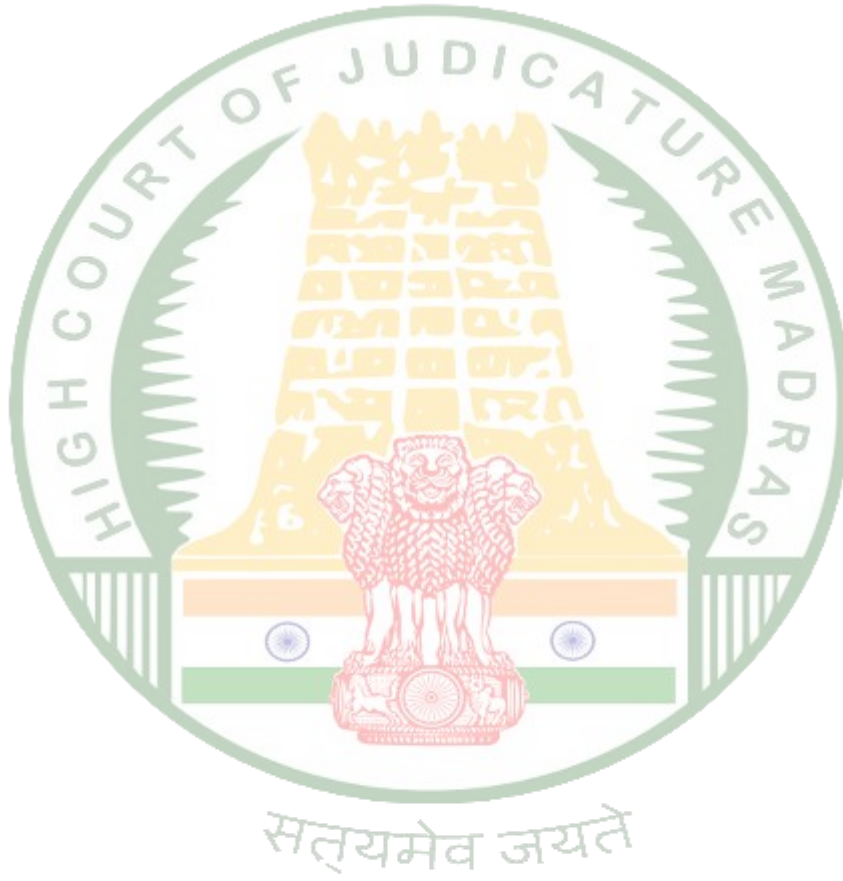
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<http://www.judis.nic.in> Note: Issue order copy on 26.02.2018

To

The X-Assistant City Civil Court,
Chennai.



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D. KRISHNAKUMAR J.,

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