

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.02.2019

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

C.R.P.(NPD).No.737 of 2019
and
C.M.P.No.4790 of 2019

S.S. Lakshmana Shankar ... Petitioner/2nd defendant
/petitioner

Vs

1.S.S.Rama Shankar
2.S.Sulochana ... 1st Respondents/plaintiffs
/1st respondents

PRAYER: Civil Revision Petition filed under Section 115 of the Code of Civil Procedure against the fair and decreetal order passed in I.A.No.3089 of 2018 in O.S.No.2521 of 2013 dated 04.12.2018 on the file of the learned XIII Assistant Judge, City Citil Court, Chennai.

For Petitioner : Mr.G.V. Sridharan

ORDER

The above Civil Revision Petition has been filed seeking to set aside the order dismissing the application filed by the 2nd defendant to condone the delay of 325 days in filing the application to set aside the *ex parte* decree passed in O.S.No.2521 of 2013 dated 02.01.2017.

2.The two reasons that have been given by the revision petitioner is that in the year 2016, he had fallen sick and he had suffered a lot of family disturbances. He would also contend that their mother had revoked her vakalat given by her to her counsel and on account of these facts, there was no representation on 02.01.2017. The suit O.S.No.2521 of 2013 is filed by the 1st respondent herein to declare the cancellation of Settlement Deed in his favour as null and void and the subsequent Settlement Deed by the 1st respondent in favour of the 2nd defendant is not binding on the plaintiff and directing the 2nd defendant to quit and deliver one bedroom in the ground floor of the suit properties.

3.It is seen that the revision petitioner had filed Written Statement on 01.01.2014 and when the matter was posted for evidence, he had remained *ex parte*. The *ex parte* decree was passed on 02.01.2017 and thereafter, an application to set aside the *ex parte* decree has been filed with the delay of 325 days. In support of the contentions that the revision petitioner was ill, a Medical Certificate (though not filed before the City Civil Court, Chennai) has been filed wherein it is shown that the revision petitioner had been admitted in the hospital only for 3 days between 26.03.2016 to 28.03.2016 whereas the *ex parte* decree has been passed on 02.01.2017 nearly 8 months after the discharge of the petitioner from the hospital.

4.As rightly pointed out by the learned Judge, no reason has been given for the condonation of delay and therefore, in the absence of sufficient cause being shown, the petition for condonation of delay has rightly been rejected by the trial Court

and the same is confirmed herein by dismissing the Civil Revision Petition.

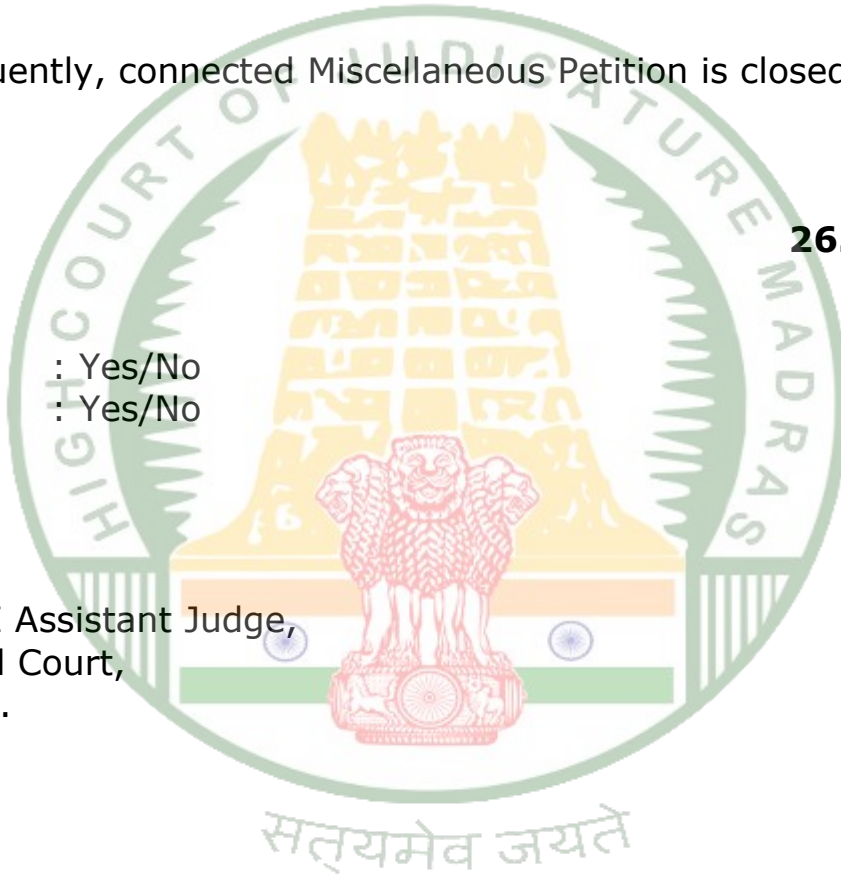
This Civil Revision Petition is dismissed. No costs.
Consequently, connected Miscellaneous Petition is closed.

26.02.2019

Index : Yes/No
Internet : Yes/No
mps

To

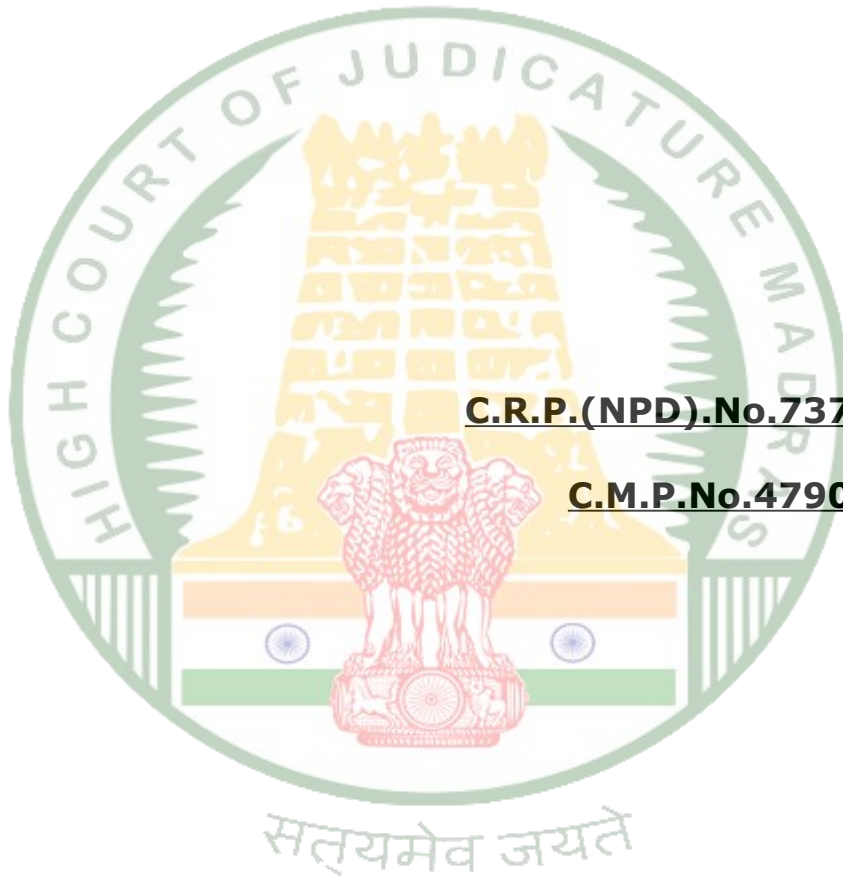
The XIII Assistant Judge,
City Civil Court,
Chennai.



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P.T. ASHA, J,

mps



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