

C.M.P.Nos.12052 & 12054 of 2019
in C.R.P.(NPD).Nos.4792 & 4836 of 2015

V.M.VELUMANI, J.

Both the petitions are filed to modify the common order of this Court dated 22.03.2018 made in C.R.P.(NPD).Nos.4792 and 4836 of 2015.

2.The petitioner is the 2nd respondent in C.R.P.(NPD).Nos.4792 and 4836 of 2015. The 3rd respondent herein filed O.S.No.1717 of 2014 on the file of the VI Assistant City Civil Court, Chennai and O.S.No.1901 of 2011 on the file of the VII Assistant City Civil Court, Chennai against the petitioner and respondents 1 and 2. Both the suits were decreed exparte. The 3rd respondent herein filed E.P.No.155 of 2015 to execute the decree in O.S.No.1717 of 2014. The respondents 1 and 2 filed two applications in I.A.No.5125 of 2015 to condone the delay of 214 days in filing a petition to set aside the exparte decree dated 16.07.2014 and I.A.No.5127 of 2015 for an interim stay of execution of E.P.No.155 of 2015, pending disposal of the petition to set aside the exparte judgment and decree dated 16.07.2014. Both the applications were dismissed by the the learned Trial Court. Against the order of dismissal, the respondents 1 and 2 filed C.R.P.(NPD).Nos.4792 and 4836 of 2015.

Notices in both the Civil Revision Petitions were served on the petitioner as well as the 3rd respondent. The petitioner did not appear before this Court either in person or through Advocate. The 3rd respondent contested the Civil Revision Petitions. On considering the materials on record, this Court dismissed both the Civil Revision Petitions and gave liberty to the respondents 1 and 2 to take further proceeding against the petitioner for recovery of money and to cancel the appointment of the petitioner. Now the petitioner has come out with the present two Civil Miscellaneous Petitions to modify the order passed in the above two Civil Revision Petitions.

3. According to the petitioner, the suit summons were not served on her and she has filed application in I.A.No.5124 of 2015 in O.S.No.1717 of 2014 to condone the delay in filing the application to set aside the ex parte decree passed in O.S.No.1717 of 2014. The said application was dismissed. Against that, the petitioner has not taken any further proceeding. The respondents 1 and 2 have initiated proceeding against the 3rd respondent and canceled her appointment. The learned counsel appearing for the petitioner submitted that the petitioner has filed W.P.No.4529 of 2019 challenging the order of cancellation of appointment and the same is pending. The learned counsel further

contended that the petitioner was unable to appear in the Civil Revision Petitions and therefore, she did not effectively conduct the case. Her non-appearance is neither wilful nor wanton.

4. Heard the learned counsel appearing for the petitioner, learned counsel appearing for the respondents 1 and 2 as well as the learned counsel appearing for the 3rd respondent and perused the materials available on record.

5. From the averments in the affidavit filed in support of the above petitions, it is seen that petitioner's attitude is that this Court must entertain and accept her contention whenever she approaches this Court according to her convenience. This practice should be deprecated. From the materials on record and the contention of the learned counsel appearing for the petitioner and respondents, it is seen that notices in Civil Revision Petitions have been served on the petitioner and the name of the petitioner was printed in the cause list on the date of hearing. This Court has passed common order dated 22.03.2018 on merits, after considering all the materials on record and hearing the counsel for 1st and 2nd respondent and 3rd respondent. In the present applications, the petitioner has not stated that notice in the Civil Revision Petitions were

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not served on her, except stating that she was unable to appear in the Civil Revision Petitions and therefore, she did not effectively conduct the Civil Revision Petitions. The petitioner has not given any reason for her non-appearance in the Civil Revision Petitions. The Courts cannot entertain petitions like present petitions as the litigants cannot be encouraged to take such application at any time according to their whims and fancies. The petitioner, having received the notices in the Civil Revision Petitions, ought to have been vigilant and taken action to safe guard her interest.

6.For the above reason, both the applications are dismissed as devoid of merits. No costs.

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29.08.2019

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