

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.S. RAMESH

CRP.(NPD)No.914 of 2018

and

C.M.P.Nos.4950 & 22115 of 2018

N.Alamelu

...Petitioner

Versus

1. A. Shanthi

2. The Sub-Registrar,
Purasawalkam,
Chennai.

...Respondents

Civil Revision Petition filed under Article 227 of Constitution of India praying, to set aside the fair and decreetal order dated 01.11.2017 in E.P.No.1159 of 2016 in O.S.No.6005 of 2014 on the file of IX City Civil Court, Chennai and allow the Revision petition.

For Petitioners : Mr.K.Nagarajan

For Respondents : Mr.P.Balasubramaniam For R1

Mr.P.P.Purushothaman For R2

ORDER

The only ground which the petitioner has raised in the revision petition is that since the learned counsel for the petitioner had certain inconvenience on 01.11.2017, they did not appear for enquiry and as such, the order was passed.

Though the petitioner has raised several grounds in the Civil Revision Petition,

she submits that the mistake of the counsel should not be put against the parties and therefore, requested for a sympathetic approach.

2. The learned counsel for the first respondent opposed the said submission and sought for rejection of the Civil Revision Petition on the ground that the petitioner herein absolutely has no right over the suit property.

3. In my view, the Execution Court, has already taken a view that the ex-parte order can be set aside and had directed the petitioner to pay the costs of Rs.1,000/-. Since a discretion was already exercised by the Execution Court to set aside the ex-parte order and the petitioner would submit that a lenient view could be taken on his failure to pay the cost in time, the petitioner can be permitted to contest the execution petition, by putting him on certain stringent condition.

4. In the result, the order dated 04.10.2017 in E.A.No.4174 of 2017 in E.P. No.159 of 2016 in O.S.No.6005 of 2014 on the file of IX City Civil Court, Chennai is set aside. Consequently, the prayer sought for in E.A.No.4174 of 2017 is allowed, subject to the condition that the petitioner pays a sum of Rs.10,000/- (Rupees ten thousand only) to the respondent herein on or before 15.02.2019.

5. It is made clear that if the petitioner fails to pay the costs of Rs.10,000/- before 15.02.2019, the application in E.A.No.4174 of 2017 shall stand automatically dismissed.

6. The Civil Revision Petition stands ordered accordingly. No costs.
Consequently, connected miscellaneous petitions are also closed.

24.01.2019

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

rli/vsi-2

To

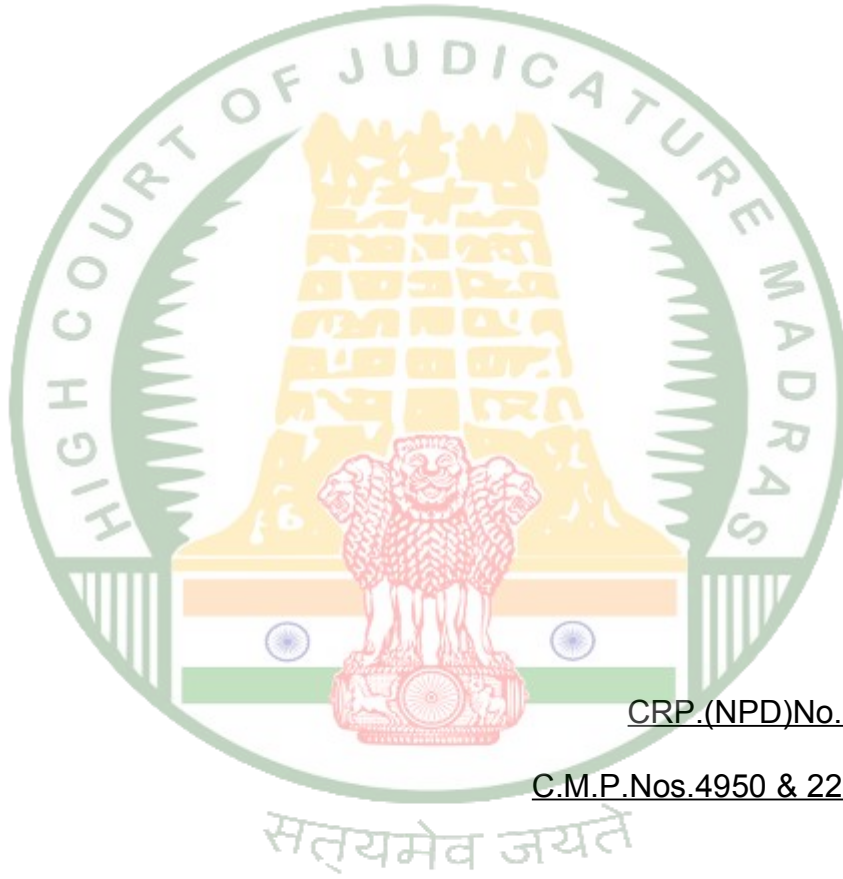
The IX City Civil Court, Chennai



WEB COPY

M.S.RAMESH, J.

rli



CRP.(NPD)No.914 of 2018
and
C.M.P.Nos.4950 & 22115 of 2018

WEB COPY

24.01.2019