

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 07.03.2019
CORAM

THE HONOURABLE Ms.JUSTICE P.T.ASHA

C.R.P.Nos. 4091 of 2018, 4093 of 2018 & 4094 of 2018
and
C.M.P.Nos.22603, 22605, 22609 of 2018

1.A.Raykanth
2.A.Anandababu
3.N.Nirmala
4.P.Jamuna
...Petitioners in all CRPs.

..Vs..

1.Mr.Jayaraman
2.Smt.Reeta @ Kitta Bai
3.Panni Bai
4.J.Mohan
5.J.Raghuram
6.J.Bakthavatchalam
7.L.Renuka Devi
8.B.Kosala Devi
9.The Chairman,
The Tamil Nadu Slum Clearance Board,
Kamarajar Salai,
Chennai - 600 005.
10.Vijayalakshmi
11.Navaneetham
12.Govindarajulu
...Respondents in all CRPs.

Prayer in CRP.No.4091/2018: Civil Revision Petition filed under section 115 of CPC to set aside the docket order dated 25.01.2018 made in C.M.P. Sr.No.37889/2017 in CMP.No.1004/2002 in A.S.No.148 of 2001 on the file of the IV Additional City Civil Court, Chennai, allow the Civil Revision Petition.

Prayer in CRP.No.4093/2018: Civil Revision Petition filed under under section 115 of CPC set aside the docket order dated 25.01.2018 made in C.M.P. Sr.No.37891/2017 in CMP.No.968/2002 in A.S.No.148 of 2001 on the file of the IV Additional City Civil Court, Chennai, allow the Civil Revision Petition.

Prayer in CRP.No.4094/2018: Civil Revision Petition filed under section 115 of CPC to set aside the docket order dated 25.01.2018 made in C.M.P. Sr.No.37890/2017 in CMP.No.733/2002 in A.S.No.148 of 2001 on the file of the IV Additional City Civil Court, Chennai, allow the Civil Revision Petition.

For Petitioners : Mr.A.S.Narasimhan

O R D E R

The above application is filed challenging the order passed in unnumbered civil miscellaneous petitions filed for restoring the petitions "dismissed for default". The petitions which were dismissed for default are respectively the applications to condone the delay in setting aside the abatement caused due to the death of the deceased / sole plaintiff, set aside the abatement and to bring on record the petitioners 1 to 5 as the legal representatives of the deceased sole plaintiff / appellant. These applications were dismissed for default on 17.12.2002. C.M.P.No.733 of 2002 is the petition filed to condone delay in setting aside the abatement and C.M.P.No. 968 of 2002 is filed to set aside the abatement and the C.M.P.No.1004 of 2002 is filed to bring them on record. These applications were dismissed for default on 17.12.2002, to restore the said applications, the revision petitioner had filed three Civil Miscellaneous Petitions in C.M.P. Sr.No.37889 of 2017 which is to restore the C.M.P.No.733 of 2002, C.M.P. Sr.No.37891 of 2017 to restore the C.M.P.No.968 of 2002 and C.M.P. Sr.No.37890 of 2017 to bring on record the legal heirs of the deceased sole plaintiff/appellant.

2. Without even numbering the said application, the learned Judge simply dismissed on the ground that the petitioners which the Revision Petition seeks to restore was dismissed for default on 17.12.2002 and the applications ought to have been filed within three years from date of dismissal. A perusal of the papers would reveal that the same has been filed in the year 2017 which was returned with the endorsement as to how the applications were maintainable.

3. In response to the said return, the revision petitioner has filed the memo explaining the same. However, no steps were taken in the said memo and the Learned Judge has also not considered the same.

4. Heard the counsel for the petitioner

5. The learned judge is directed to receive the memo and pass orders after going through the memo. The learned IV Additional City Civil Court, Chennai before whom the appeal is pending shall decide the said memo filed in C.M.P.Sr.37889 of 2017 in A.S.No.148 of 2001 within a period of two weeks from the date of receipt of a copy of this order.

6. Accordingly, the Civil Revision Petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

pns/ssb
TO

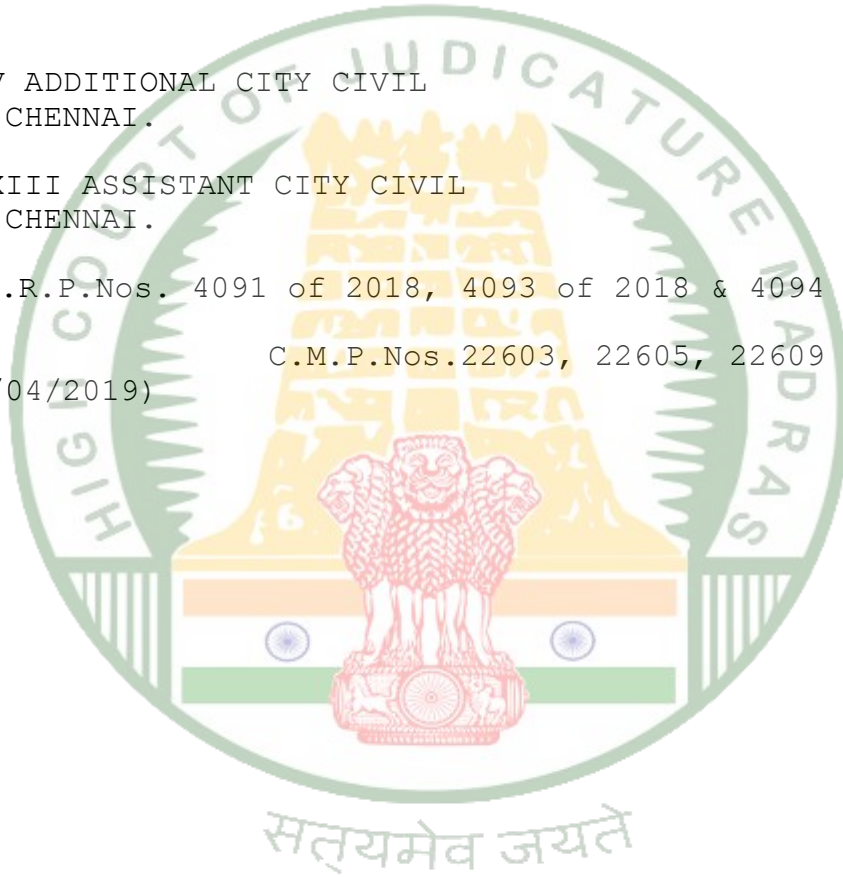
1.THE IV ADDITIONAL CITY CIVIL
COURT, CHENNAI.

2. THE XIII ASSISTANT CITY CIVIL
COURT, CHENNAI.

C.R.P.Nos. 4091 of 2018, 4093 of 2018 & 4094 of 2018
and

C.M.P.Nos.22603, 22605, 22609 of 2018

A.SK(09/04/2019)



WEB COPY