

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14..02..2020

CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

CIVIL REVISION PETITION NO.250 OF 2020

Mrs.M.Lakshmi

... Petitioner

-Versus-

1.K.Rajeswari

2.N.Logeswaran

3.N.Venkateshwaran

... Respondents

Petition filed under Section 115 of CPC praying to set aside the order and decretal order dated 22.11.2019 made in I.A.No.3 of 2019 in I.A.No.1 of 2019 in A.S.No.186 of 2018 by the learned XV Additional District Judge, City Civil Court, Chennai.

For Petitioner : Mr.V.Lakshmi Narayanan for
Mr.S.Mohan

For Respondents : Mr.S.Kumara Devan

ORDER

This civil revision petition has been filed against the order dated 22.11.2019 passed by the learned XV Additional Judge, City Civil Court, Chennai, dismissing the application in I.A.No.3 of 2019 filed by the petitioner under Section 148 of CPC seeking extension of time for payment of cost.

2. The respondents are the plaintiffs in O.S.No.575 of 2014 on the file of the learned VI Assistant Judge, City Civil Court. The above said suit was filed against the petitioner herein seeking a decree of declaration declaring the right of the plaintiffs to the car parking area in the ground floor of the schedule mentioned premises for parking the vehicles so long as they occupy the first floor residential premises and for a permanent injunction restraining the defendants from in any manner causing nuisance to the plaintiffs from parking their vehicles of any nature in the said parking area. The said suit was dismissed on 08.12.2017. Challenging the dismissal of the

suit, the respondents have preferred an appeal in A.S.No.186 of 2018 before the learned XV Additional Judge, City Civil Court, Chennai. Since the petitioner, who is the 4th respondent, in the appeal suit did not appear for the hearing on 13.12.2008, she was set ex parte in the appeal. Immediately on coming to know the same, the petitioner filed an application in I.A.No.1 of 2019 seeking to set aside the ex parte order passed against her in the appeal suit. That application was allowed by order dated 24.07.2019 on payment of cost of Rs.1,000/- payable to the District Mediation Center, Chennai, on or before 23.07.2019. According to the petitioner, the learned counsel had inadvertently paid the cost to the District Legal Services Authority, Chennai instead of District Mediation Center. Thereafter, on realizing the mistake, the learned counsel filed an application under Section 148 of CPC seeking extension of time for payment of cost. That application was dismissed by the court below. Challenging the same, the present revision has been filed.

3. The learned counsel appearing for the petitioner would submit that due to inadvertence the cost had been paid to the District Legal Services Authority instead of District Mediation Center. On realizing the mistake, though the petitioner was ready and willing to pay the cost as directed by the court below to the District Mediation Center, Chennai, the court below had refused to extend the time.

4. The learned counsel for the respondents per contra submitted that the application for extension of time was not only dismissed for non payment of cost, but also, taking note of the demeanor of the counsel who was appearing for the petitioner.

5. At this juncture, the learned counsel for the petitioner submitted that the petitioner has now changed her counsel and she is still ready and willing to pay the cost as directed by the court below.

6. Considering the facts and circumstances of the case and the submissions made on either, this court is inclined to allow this revision petition.

7. In the result, this revision petition is allowed and the order impugned in the revision is set aside. The application in I.A.No.3 of 2019 is allowed and the petitioner is directed to

pay the cost of Rs.1,000/- to the District Mediation Center, Chennai, on or before 28.02.2020. On such payment, the learned appellate Judge is directed to take up the appeal suit for hearing and dispose of the same within a period of six months from the date of receipt of a copy of this order. No costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kmk

To

1. The XV Additional District Judge,
City Civil Court, Chennai.

Copy To

The Secretary,
District Mediation Centre,
Chennai.

+1cc to Mr.S.Mohan, Advocate, S.R.No.13438

+1cc to Mr.S.Kumara Devan, Advocate, S.R.No.13153

C.R.P.No.250 of 2020

MG (CO)
CS/20/02/2020

सत्यमेव जयते
WEB COPY