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CRP.Nos. 2469, 2471 & 2475 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.09.2023

CORAM:

THE HONOURABLE **MRS. JUSTICE V.BHAVANI SUBBAROYAN**

CRP.Nos. 2469, 2471 & 2475 of 2023

and

C.M.P. Nos. 15387, 15388 & 15396 of 2023

R. Mani

.. Petitioner
[In all three CRPs]

Versus

1.S.Balaji
2.Panjali Ammal @ Valliammal
3.M. Lakshmi
4.R.Maya
5.Raghu

.. Respondents
[In all three CRPs]

CRP.No. 2469 of 2023 is filed under Article 227 of the Constitution of India, prays to set aside the petition docket order in IA.Sr.No. 48156 of 2023 in I.A.No. 7 of 2023 in O.S.No. 9014 of 2019 dated 27.06.2023 on the file of the XVII Additional City Civil Court, Chennai.

CRP.No. 2471 of 2023 is filed under Article 227 of the Constitution of India, prays to set aside the petition docket order in IA.Sr.No. 49140 of 2023 in I.A.No. 7 of 2023 in O.S.No. 9014 of 2019 dated 27.06.2023 on the file of the XVII Additional City Civil Court, Chennai.

CRP.No. 2475 of 2023 is filed under Article 227 of the Constitution of India, prays to set aside the petition docket order in IA.No. 7 of 2023 in O.S.No. 9014 of 2019 dated 23.06.2023 on the file of the XVII Additional City Civil



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Court, Chennai.

In all three CRPs:-

For Petitioner : Mr.S. Sridhar
For Respondents : Mr.M. Balasubramanian

COMMON ORDER

These Civil Revision Petitions have been filed seeking to set aside the petition docket order in IA.Sr.No. 48156 of 2023 in I.A.No. 7 of 2023 in O.S.No. 9014 of 2019 dated 27.06.2023, IA.Sr.No. 49140 of 2023 in I.A.No. 7 of 2023 in O.S.No. 9014 of 2019 dated 27.06.2023 and IA.No. 7 of 2023 in O.S.No. 9014 of 2019 dated 23.06.2023 pending on the file of the XVII Additional City Civil Court, Chennai.

2. Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

3. On a perusal of the records, it is seen that the 1st respondent/plaintiff has filed the suit in O.S.No. 9014 of 2019 before the XVII Additional City Civil Court, Chennai, directing the defendants to deliver the vacant possession of the entire premises bearing Door No. 29, Nainiappa Naicken



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Street, Chintadripet, Chennai-2, morefully set out in the schedule hereunder and directing the defendants to pay jointly a sum of Rs.25,000/- damages per month from 11.09.2019 onwards till such time they surrender vacant possession. The 3rd defendant has contested the suit by filing written statement denying all the averments made in the plaint. During the pendency of the suit proceedings, the revision petitioner/3rd defendant has filed I.A.No. 7 of 2023 under Order IX Rule 7 of CPC seeking to set aside the ex-parte order passed against the 3rd defendant in the above suit in O.S.No. 9014 of 2019, dated 22.01.2020. After perusing the records, the trial Court passed orders dated 27.06.2023 and 23.06.2023 on the ground that the petitioner has not complied with the conditional orders and hence, the applications in SR.Nos.49140 and 48156 of 2023 and set aside the application in Docket order in I.A.No. 7 of 2023 have been returned. Aggrieved by the said orders, the petitioner/3rd defendant has come forward with the present Civil Revision Petition.

4. On a further perusal of the records, it reveals that the petitioner is the 3rd defendant in the suit and the suit summon was not served on the petitioner. The suit was posted for petitioner's appearance on 22.01.2020. On that date, the petitioner was not appeared before the trial Court and



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therefore, the petitioner was called absent and set ex-parte. Subsequently, the petitioner has filed set aside application before the XVII Additional City Civil Court, Chennai in I.A.No. 7 of 2023 and the same was allowed on 14.06.2023 on condition that the petitioner should pay a sum of Rs.6,000/- to the 1st respondent on or before 22.06.2023. However, the petitioner has not complied with the said conditional order.

5. While that being the case, the petitioner is a senior citizen aged 63 years, due to the financial crisis, he was unable to pay the said Rs.6,000/- in time. Therefore, the petitioner has filed two applications in the suit for modify the conditional order in I.A.SR.No. 48155/2023 and one for extension of time for complying the conditional order in I.A.SR.No. 48156/2023 on 22.06.2023 and the same were dismissed for default on 23.06.2023. Immediately, the petitioner has filed IA.SR.No. 49140/2023 to restore the IA.No.7/2023 and the same was returned by the trial Court as not maintainable on 26.06.2023 and the above two applications IA.SR.No. 48155 of 2023 and I.A.SR.No. 48156 of 2023 were also returned as not maintainable on 27.06.2023.

6. Taking into the above facts and circumstances of the case and the



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submissions made by the learned counsel for the respondent, this Court is

inclined to pass the following order:-

(i) This Court extends time to pay a sum of Rs.6,000/- (Six Thousand Only) costs imposed by the trial Court within a period of two weeks from the date of receipt of a copy of this order.

(ii) Further, the trial Court is directed to dispose of the suit in O.S.No. 9014 of 2019 pending on the file of the XVII Additional City Civil Court, Chennai, as expeditiously as possible, preferably, within a period of one year.

7. Accordingly, all the Civil Revision Petitions are disposed of. Consequently, connected Miscellaneous Petitions are closed. No costs.

20.09.2023

Index : Yes/No

Speaking order / Non speaking order

Neutral citation : Yes/No

msm

To

1. The XVII Additional City Civil Court, Chennai.
2. The Section Officer, V.R. Section, High Court, Madras.



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V.BHAVANI SUBBAROYAN, J.

msm

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