

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2015

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(PD)No.1469 of 2015
and
M.P.No.1 of 2015

Abdul Razzack

.... Petitioner

vs

Zubedha Bi

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 6.9.2014 in I.A.No.277 of 2014 in O.S.No.145 of 2010 on the file of learned District Munsif, Court, Krishnagiri.

For Petitioner : Mr.V. Nicholas

ORDER

Challenging the fair and final order passed in I.A.No.277 of 2014 in O.S.No.145 of 2010 on the file of District Munsif, Krishnagiri, the first defendant has filed the above Civil Revision Petition.

2. The plaintiff filed a suit in O.S.No.145 of 2010 for declaration and permanent injunction. The first defendant has filed his written statement and is contesting the suit. After the suit was posted for trial in the list on 7.2.2014 thereafter, on 15.4.2014, the first defendant filed an application under Sec.10 of Civil Procedure Code, to stay the suit till the disposal of the Second Appeal in S.A.Nos.171 to 173 of 2010, pending on the file of this Court.

3. The said application was contested by the plaintiff, stating that the Second Appeal in S.A.Nos.171 to 173 of 2010 are of no concern to the respondent, as she is not the party to any of the suits or appeals till this date.

4. The Trial court, after taking into consideration of both the

parties, dismissed the application, finding that the application was filed at a belated stage i.e., after more than four years from the date of filing of the suit. The earlier suit in O.S.No.229 of 1998 was filed in the year 1998 and against the judgement and decree passed in the said suit, a First Appeal in A.S.No.79 of 2006 was filed, which was also dismissed by the lower Appellate Court, against which, a Second Appeal in S.A.No.171 of 2010 was filed, which is pending before this Court.

5. When the Second Appeal is pending from the year 2010 and the present suit i.e., O.S.No.145 of 2010 is also pending since 2010, the first defendant could have filed an application to stay the suit at the earliest point of time, but for the reasons best known to the first defendant, he filed the application only on 15.4.2014, that too, when the suit was posted for trial in the list. Since the petition has been filed at a belated stage, the trial court has rightly dismissed the application.

6. In these circumstances, I do not find any error or

irregularity in the order passed by the trial court in I.A.No.277 of 2014 in O.S.No.145 of 2010 on the file of learned District Munsif, Court, Krishnagiri and hence the civil revision petition is liable to be dismissed as devoid of merits. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected MP is closed.

21-04-2015

sr

Index:yes/no

website:yes/no

To

The District Munsif Court, Krishnagiri

M. DURAISWAMY,J.,

sr

CRP(NPD)No.1469 of 2015

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