

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :20.07.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.2884 of 2015 &

M.P.No.1 of 2015

Subramaniam

... Petitioner

v.

1.Ramkumar
2.Palaniappan

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the fair and decreetal order dated 13.01.2015 made in I.A.No.96 of 2014 in A.S.No.28 of 2011 on the file of Additional Subordinate Judge (Trainee District Judge), Namakkal.

For Petitioner : Mr. T.Dhanyakumar

ORDER

Challenging the fair and final order passed in I.A.No. 96 of 2014 in A.S.No.28 of 2011 on the file of Additional Subordinate Judge (Trainee

District Judge), Namakkal, the 1st defendant in O.S.No.595 of 2008 on the file of Principal District Munsif Court, Namakkal, has filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.595 of 2008 for permanent injunction. The defendants filed their written statement and contested the suit. The Trial Court, after taking into consideration the oral and documentary evidences of both the parties, decreed the suit. Aggrieved over the same, the defendants have preferred an appeal in A.S.No.28 of 2011 before the Additional Subordinate Judge (Trainee District Judge), Namakkal, In the said First Appeal, the 1st defendant filed an application in I.A.No. 96 of 2014 under Order VIII Rule 9 of CPC to file additional written statement. In the additional written statement the defendants sought to clarify some aspects in the original written statement. The said application was opposed by the plaintiff stating that the application has been filed at a belated stage.

3. The Lower Appellate Court, taking into consideration the case of both the parties dismissed the application finding that there is no merit in the application filed by the defendants.

4. It is pertinent to note that the defendants have not stated any reason for not filing the application before the Trial Court. Based on the

available pleadings, the parties went into the box and let in oral and documentary evidences and the Trial Court also decreed the suit. Thereafter, at the appellate stage, the defendants filed the present application seeking permission of the court to file additional written statement.

5. In the absence of any acceptable reason given by the defendants for not filing an application before the trial Court, the Lower Appellate 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. The Civil Revision Petition is devoid of merits and is liable to be dismissed. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Index : No
Internet : Yes

20.07.2015

Rj

To

The Additional Subordinate Judge
(Trainee District Judge),
Namakkal.

M. DURAISWAMY,J.,

Rj

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