

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2016

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.3008 of 2014 &

M.P.No.1 of 2014

Prema

... Petitioner

v.

1.Dr.Subramaniam
2.Muthu Arumugam
3.Gopalsamy
4.Ponnammal
5.Dhanalakshmi
6.Rajeswari
7.Chandrika
8.N.Balakrishnan
9.T.Muthulakshmi
10.T.R.Easwaramoorthi
11.T.R.Venkatachalam
12.S.Palaniammal
13.P.T.R.Arumugam
14.R.Marimuthu
15.D.Angulakhmi

... Respondents

Civil Revision Petition filed under section 115 of the Civil Procedure Code to set aside the order dated 12.03.2014 passed in I.A.No.1473 of 2012 in O.S.No.228 of 2007 on the file of District Munsif, Avinashi.

For Petitioner : Ms.P.T.Asha

For Respondents : Mr.Sathish Parasaran Sr. Counsel
for Mr.R.Parthasarathy – for R1

No appearance – for R2 to R5,
R8 and R10 to R15

Not ready in Notice – R6, R7 & R9

O R D E R

Challenging the final decree passed in I.A.No.1473 of 2012 in O.S.No.228 of 2007 on the file of District Munsif Court, Avinashi, the 7th defendant has filed the above Civil Revision Petition.

2. Admittedly, the 7th defendant has not filed any appeal as against the final decree passed in I.A.No.1473 of 2012. Without exhausting the appeal remedy, the 7th defendant has filed the Civil Revision Petition under section 115 of the Civil Procedure Code.

3. Mr.Sathish Parasaran, learned Senior Counsel, appearing for the first respondent submitted that when the 7th defendant has got appeal remedy, without exhausting the same, the filing of the Civil Revision Petition by her is not maintainable.

4. In these circumstances, I am also of the view that the Civil Revision Petition filed as against the final decree is not maintainable. Hence, the Civil Revision Petition filed as against the final decree passed in I.A.No.1473 of 2012 is liable to be rejected. It is open to the 7th defendant to file an appeal before the Lower Appellate Court as against the final decree passed in I.A.No.1473 of 2012 in O.S. No.228 of 2007 and in the event of 7th defendant filing an application for condonation of delay before the Lower Appellate Court, the Lower Appellate Court is directed to decide the same, on merits and in accordance with law.

With these observations, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

11.07.2016

Index : Yes/No

Rj

To

The District Munsif Court,
Avinashi,

M. DURAISWAMY,J.,

C.R.P.(NPD)No.3008 of 2014 &
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