

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :22.12.2015

CORAM

THE HONOURABLE MR. JUSTICE M. DURAISWAMY

C.R.P.(NPD)No.1717 of 2015 &

M.P.No.1 of 2015

1.K.Anboli
2.Kalyani

... Petitioners

v.

1.Saraswathi
2.Yasodha

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 5.2.2013 passed in E.A.Sr.No.3132 of 2013 in E.P.No.1356 of 2012 on the file of X Assistant City Civil Court, Chennai in O.S.No.6830 of 2007 on the file of VIII Assistant City Civil Court, Chennai.

For Petitioners : Mr. H.Nazirudeen

For Respondents : Mr. B.Thanikachalam

ORDER

Challenging the order passed in unnumbered E.A.Sr.No.3132 of 2013 in E.P.No.1356 of 2012 in O.S.No.6830 of 2007 on the file of X Assistant

Judge, City Civil Court, Chennai the judgment debtors have filed the above Civil Revision Petition.

2. The plaintiffs filed the suit in O.S.No.6830 of 2007 on the file of VIII Assistant City Civil Court, Chennai, for recovery of possession, for past and future damages and for other reliefs.

3. By order dated 25.11.2011, the Trial Court decreed the suit. Aggrieved over the same, the defendants preferred an Appeal in A.S.No.302 of 2012 and the Lower Appellate Court also confirmed the judgment and decree of the Trial Court. Aggrieved over the same, the defendants preferred Second Appeal in S.A.No.317 of 2013 and this court also confirmed the judgments and decrees of the courts below and dismissed the Second Appeal. Against the judgment and decree passed in S.A.No.317 of 2013, the defendants preferred an appeal before the Hon'ble Supreme Court of India in S.L.A.(C) No.4358 of 2015 and the Hon'ble Supreme Court dismissed the Appeal on 9.3.2015. In the mean time, pursuant to the decree passed in O.S.No.6830 of 2007, the plaintiffs filed an Execution petition in E.P.No.1356 of 2012. In the said Execution Petition, the judgment debtors filed an application in E.A.Sr.No.3132 of 2013 under section 47 of CPC. The said application was rejected by the Execution court

4. The contention now raised in the above Execution Petition is that section 29 of Tamil Nadu Slum Areas (Improvement and Clearance) Act was not considered by the courts below. However, on a reading of the judgment passed in the second Appeal, it is clear that Section 29 of the Act was considered by this court and a clear finding was given against the defendants. In such a case, the defendants cannot re-agitate the matter once again raising the very same issue, which was also confirmed by the Hon'ble Apex Court.

5. In these circumstances, the rejection of the application by the Execution Court is just and Proper. I do not find any error or irregularity in the order passed by the Execution 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.

22.12.2015

Index : Yes/No

Rj

To

1.The X Assistant Judge,
City Civil Court, Chennai

2.The VIII Assistant Judge,
City Civil Court, Chennai.

M. DURAISWAMY,J.,

Rj

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