

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.4786 of 2015

and

M.P.No.1 of 2015

Mrs.Vanaja

... Petitioner

vs.

1.Jagannathan @ Ramasami

2.Gunasekaran

3.Mani

... Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order and decretal order of the District Munsif, Pochampalli dated 14.07.2015 made in I.A.No.146/2015 in O.S.No.4/2014

For Petitioner : Mr.R.Neelakandan

For Respondents : Mr.L.Munisamy

ORDER

Heard both sides.

2. The plaintiff in O.S.No.4/2014 on the file of the District Munsif Court, Pochampalli, is the petitioner in the civil revision petition. He filed an application in I.A.No.146/2015 seeking permission to withdraw the suit. Of course in the petition no leave to file a fresh suit regarding the very same subject matter has been sought for. However, in the supporting affidavit, the petitioner had stated that she wanted to file an appeal before the Authorities under the Tamil Nadu Hindu Religious and Charitable Endowments Act, 1959.

In addition she has also stated that she wanted to withdraw the suit because of some technical defects of non-joinder of necessary parties. In the prayer found in the petition also, the above said averment found in the supporting affidavit has been referred to as the ground on which the petitioner sought permission of the court below to withdraw the suit. If at all the petitioner wanted to withdraw her suit simpliciter, she need not have filed any petition seeking permission. She could have very well made an endorsement withdrawing the suit, in which event, the court shall have no other option to dismiss the suit as withdrawn, excepting a decision as to award of cost to the defendants, who may insist upon the same.

3. The very fact that the petitioner has chosen to file such a petition, will show that in an indirect way, she wanted to use it as a permission for filing a fresh proceeding. The same was the reason why the learned trial Judge chose to dismiss the said application. After the filing of the revision against the order impugned in this civil revision petition, further developments took place and the suit itself has been dismissed for non-prosecution. On the dismissal of the suit for non-prosecution, the present civil revision petition has become infructuous.

Accordingly, the present civil revision petition is dismissed as infructuous. However, there shall be no order as to cost. Consequently, the connected miscellaneous petition is closed.

05.04.2016

Internet : Yes
asr

To
The District Munsif, Pochampalli

P.R.SHIVAKUMAR, J.
asr/-

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