

In the High Court of Judicature at Madras

Reserved on : 09.10.2015 & Delivered on 28.3.2016

Coram :

The Honourable Mr.Justice V.RAMASUBRAMANIAN

and

The Honourable Mr.Justice T.MATHIVANAN

Review Application No.226 of 2015 and M.P.No.1 of 2015

S.Diwakar

...Applicant

Vs

L.Subramanian

...Respondent

APPLICATION under Order XLVII Rule 1 and Section 114 of the Code of Civil Procedure against the order dated 15.9.2015 made in CMA.SR.No.75689 of 2015.

Applicant : Appearing in Person

ORDER

V.RAMASUBRAMANIAN,J

This is an application seeking a review of our order dismissing an appeal, filed against the dismissal of a civil revision petition by a learned Single Judge, as not maintainable.

2. Heard Mr.S.Diwakar - applicant appearing in person.

3. The applicant is a practising advocate. He was the counsel for the plaintiff in a suit in O.S.No.2309 of 2009 on the file of the 18th Assistant Judge, City Civil Court, Chennai. The vakalat given by the plaintiff in the suit in favour of the applicant was revoked on an application taken out by the plaintiff. As against the said order of the Trial Court, the applicant filed a civil revision petition. The civil revision petition was dismissed as not maintainable. The review arising out of the same was also dismissed.

4. As against the said order of the learned Judge passed in a revision under Section 115 of the Civil Procedure Code, the applicant filed a miscellaneous appeal. This appeal was dismissed by us as not maintainable. Aggrieved by the said decision, the applicant has come up with the above review application.

5. The applicant has again sought to project the case on the basis of the concluding part of Section 105 of the Civil Procedure Code. Section 105 reads as follows :

*"105. Other orders - (1) Save as otherwise expressly provided, no appeal shall lie from any order made by a Court in the exercise of its original or appellate jurisdiction; but, where a decree is appealed from, any error, defect or irregularity in any order, affecting the decision of the case, may be set forth as a ground of objection in the memorandum of appeal.*

*(2) Notwithstanding anything contained in Sub-Section (1), where any party aggrieved by an*

*order of remand from which an appeal lies does not appeal therefrom, he shall thereafter be precluded from disputing its correctness."*

6. The last part of Section 105 does not empower a Division Bench of this Court to sit on appeal over a decision rendered in a revision under Section 115. We see no grounds for reviewing our order.

7. Accordingly, the above review application is dismissed.

28.3.2016

Internet : Yes

RS

V.RAMASUBRAMANIAN,J

AND

T.MATHIVANAN,J

RS

Rev.Appln.No.226 of 2015

28.3.2016