

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.04.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.1039 of 2016

&

C.M.P.No.5819 of 2016

V.Subramaniyan (Died)

1.S.Ravi

2.Saroja

3.Prema

4.Murali

... Petitioners

Vs

Murugesan

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decretal order of dismissal dated 10.06.2014 passed in I.A.No.225 of 2014 in I.A.No.634 of 2013 in O.S.No.291 of 2009 dated 10.06.2014 on the file of II Additional Subordinate Judge, Salem.

For Petitioner : Mr.L.Rajendran

ORDER

Defendants 2 to 5 in O.S.No.291 of 2009 on the file of II Additional Subordinate Judge, Salem are the petitioners in the present Civil Revision Petition preferred under Section 115 of the Code of Civil Procedure.

2. The suit was filed by the respondent for recovery of money. The petitioners in the revision filed I.A.No.634 of 2013 for referring the disputed document for the opinion of a handwriting expert. But they failed to prosecute the same, which resulted in the dismissal of the said application for non-prosecution. Subsequently, they filed an application I.A.No.225 of 2014 for restoration of that application. The learned trial Judge, after hearing both sides, holding that the attempt made by the petitioners was nothing but an attempt to prolong the case as long as possible and that hence the petition could not be allowed, dismissed the said application also. As against the said order, the present Civil Revision Petition has been filed under Section 115 of the Code of Civil Procedure.

3. Section 115 of the Code of Civil Procedure provides a condition for entertaining a revision if the order challenged had been the other way in favour of the revision petitioners, it should have resulted in termination of the suit or the other proceedings. Then only the revision could be entertained under the said provision. If the order, when reversed in favour of the revision petitioners, will not cause termination of the suit or the other proceedings, the revision under Section 115 CPC will not lie. On that ground alone, the revision deserves to be dismissed.

4. In addition, this Court does not find any defect or infirmity in the reason assigned by the trial Court for the dismissal of I.A.No.225 of 2014. There is no scope of interference. There is no merit in the revision and it deserves to be dismissed at the threshold.

Accordingly, the revision is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

01.04.2016

Index: Yes/No

Internet: Yes/No

gpa

To

II Additional Subordinate Judge

Salem

P.R.SHIVAKUMAR, J

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