

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 22.02.2016

CORAM

THE HONOURABLE Mr. JUSTICE P.R.SHIVAKUMAR

C.R.P.[PD] No.33 of 2016
and C.M.P.No.175 of 2016

S.Kumaravadivel

... Petitioner

Vs

1.Eswari

2.M.Kuppusamy

3.M.Sureshkumar

... Respondents

Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and final order dated 25.11.2015 passed in IA.No.232 of 2014 in OS.No.537 of 2008 on the file of the II Additional Sub Court, Erode.

For Petitioner : Mr.I.C.Vasudevan

For Respondents : Mr.N.Manoharan

ORDER

The plaintiff in the original suit is the petitioner in the Civil Revision Petition. The respondents in the Civil Revision Petition are defendants 4 to 6 in the original suit. The respondents 1 to 3 herein/defendants 4 to 6 filed an application in IA.No.232 of 2014 in the suit namely, OS.No.537 of 2008 on the file of the trial Court, namely, the Court of the II Additional Sub Judge, Erode, seeking permission to file additional written statement containing a counter claim. The same was resisted on the ground that a time barred claim was sought to be included by way of a counter claim. The learned trial Judge after hearing, however rejected the contention of the plaintiff and allowed the said application by an order dated 25.11.2015. It is against

the said order allowing IA.No.232 of 2014 in OS.No.537 of 2008, the plaintiff in the original suit has approached this Court with the Civil Revision Petition under Section 227 of the Constitution of India.

2. Mr.N.Manoharan, learned counsel for the respondents submits that the respondents 1 to 3 are willing to withdraw the very IA.No.232 of 2014, the order passed in which has been made the subject matter of challenge in the present revision.

3. Mr.I.C.Vasudevan, learned counsel for the revision petitioner/plaintiff submits that the revision petitioner does not have any objection for permitting the respondents to withdraw the said IA.No.232 of 2014.

4. Endorsements to that effect have been made. The endorsements are recorded. In view of the endorsements, the Civil Revision Petition is allowed in part and the order of the trial Court dated 25.11.2015 made in IA.No.232 of 2014 in OS.No.537 of 2008 is set aside. IA.No.232 of 2014 shall stand dismissed as withdrawn. Anyhow, as requested by the learned counsel for the respondent, it is clarified that the withdrawal of IA.No.232 of 2014 will not be a bar for the defendants 4 to 6 to contest the suit, based on the pleadings made in the original written statement. No costs. Consequently, connected Miscellaneous Petition is closed.

22.02.2016

gya

P.R.SHIVAKUMAR, J.

gya

To
The II Additional Sub Judge,
Erode.

C.R.P.[PD] No.33 of 2016
and C.M.P.No.175 of 2016

22.02.2016