

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2016

CORAM

THE HONOURABLE THIRU JUSTICE M. DURAISWAMY

C.R.P.(NPD) No.3581 of 2016

Varalakshmi

... Petitioner

..VS..

1. G.N.Saravanan
2. N.Vijayakumar
3. Kasthuri
4. G.Natarajan

... Respondents

Civil Revision Petition filed under section 115 of the Civil Procedure Code against the Judgment and decretal order dated 29.02.2016 dismissing the petitioner's/appellant's C.M.P.No.35 of 2015 in A.S.No.50 of 2015 on the file of the XIX Additional City Civil Court, Chennai.

For Petitioner : Mr.J.S.Mahalingam

ORDER

Challenging the order dated 29.02.2016 passed in C.M.P.No.35 of 2015 in A.S.No.50 of 2015 on the file of the XIX Additional City Civil Court, Chennai, the 2nd defendant in O.S.No.5108 of 2008 on the file of the XIII Assistant Judge, City Civil Court, Chennai, has filed the above

Civil Revision Petition.

2. The suit in O.S.No.5108 of 2008 was filed by the respondents 1 and 2 for declaration and permanent injunction. After contest, the trial Court, decreed the suit by its Judgment and decree dated 26.06.2014. Against the Judgment and decree of the trial Court, the 2nd defendant preferred an appeal in A.S.No.50 of 2015 on the file of the XIX Assistant Judge, City Civil Court, Chennai. In the said appeal, the 2nd defendant filed an application in C.M.P.No.35 of 2015 under Order 41 Rule 27 of the Code of Civil Procedure. The lower Appellate Court dismissed both the first appeal and the Civil Miscellaneous Petition in C.M.P.No.35 of 2015 by its common Judgment dated 29.02.2016.

3. The learned counsel for the petitioner submitted that as against the Judgment and decree dated 29.02.2016 passed in A.S.No.50 of 2015, the 2nd defendant has filed a Second Appeal before this Court, which has been numbered as S.A.No.901 of 2016. It is also brought to the notice of this Court that the petitioner has raised dismissal of C.M.P.No.35 of 2015 as a substantial question of law in the Second Appeal and also raised it as a ground in the memorandum of grounds in the Second Appeal. In these circumstances, there is no necessity for challenging the order passed in C.M.P.No.35 of 2015 by way of revision before this Court. The correctness of the order passed in C.M.P.No.35 of 2015 can be raised in

the Second Appeal.

4. In these circumstances, I do not find any reason to entertain the Civil Revision Petition and hence the same is rejected. No costs.

18.11.2016

rg

To
The XIX Additional City Civil Court, Chennai.

M. DURAISWAMY,J.,

rg

C.R.P.(NPD) No.3581 of 2016

18.11.2016