

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.03.2016

CORAM

THE HONOURABLE MR. JUSTICE P.R.SHIVAKUMAR

C.R.P (PD) No.952 of 2016

&

C.M.P.No.5340 of 2016

Krishnaswamy (died)
K.Selvaraj

... Petitioner

vs.

Indian Christian Association
Represented by its Secretary
J.Anand Manohar
No.5, Gandhi Irwin Road
Egmore
Chennai - 8

... Respondent

Civil Revision Petition filed under Article 227 of the Constitution of India against the petition and order passed in Memo in O.S.No.5039 of 2013 dated 19.01.2016 on the file of IV Assistant City Civil Court, Chennai.

For Petitioner : Mr.V.Manohar

ORDER

On the dismissal of an application filed under Order VII Rule 11 CPC, the trial Court imposed a cost of Rs.25,000/- to be paid by the defendant to

the plaintiff. The said amount was not paid and hence, the plaintiff filed a memo to stop the proceedings / strike off the defence for non-payment of the cost awarded. The memo was resisted by a written objection containing an averment to the effect that the cost could not be sought to be recovered unless and until the suit is terminated by a judgment.

2. Rejecting the said contention and also noticing the fact that for about two years no steps came to be taken to challenge the order dismissing the application filed under Order VII Rule 11 CPC and imposing a cost, the learned trial Judge chose to fix an ultimatum within which the cost should be paid with a further direction that in the event of default, the defence would be struck off. It is as against the said order of the trial Court dated 19.01.2016, the present Civil Revision Petition has been filed.

3. Mr.V.Manohar, learned counsel for the petitioner, after arguing for a while, comes forward to withdraw the Civil Revision Petition with a prayer for the grant of two weeks time for making payment of the cost awarded by the trial Court in the interlocutory application. The learned counsel has also made an endorsement to that effect.

Endorsement is recorded. The Civil Revision Petition is dismissed as withdrawn. However, the time for payment of cost is extended by two weeks from today. No costs. Consequently, the connected miscellaneous petition is

closed.

24.03.2016

Index: Yes/No

Internet: yes/No

gpa

Note: Issue order copy on 24.03.2016

To

IV Assistant City Civil Court
Chennai

P.R.SHIVAKUMAR.J.,

gpa

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