



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.02.2016

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P (MD) No.412 of 2016 (PD)

and

C.M.P. (MD) No.1792 of 2016

1.S.Chandrasekaran

2.Krishnakumari

.. Petitioners/Petitioners/
1 and 2 Defendant

Vs.

Meenakshi Sundaram

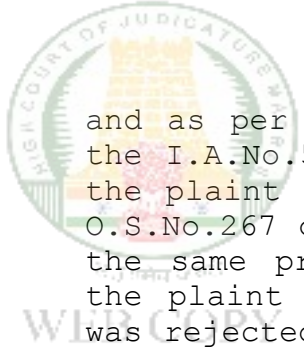
.. Respondent/Respondent/Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, to allow this Revision and setting aside the return order dated 14.12.2015 and directing the trial Court to number the interlocutory application I.A.No.Unnumbered/2016 in O.S.No.267/2015, on the file of Principal Sub Court, Madurai and to pass final order on merits in the interlocutory application within time frame fixed by this Court.

For Petitioner : Mr.R.Ramasamy

ORDER

The petitioner is the defendant in the suit in O.S.No.267 of 2015. The respondent, who is the plaintiff, filed a suit in O.S.No.267 of 2015, on the file of the Principal Sub Court, Madurai for declaration and injunction. The petitioner filed a suit in O.S.No.2 of 2001, on the file of the District Munsif Court, Madurai for declaration and injunction against the respondent. The said suit was dismissed on 06.11.2011. Against the said judgment and decree, the petitioner filed A.S.No.33 of 2002, on the file of the Principal Sub Court, Madurai. The said A.S.No.33 of 2002 was allowed and the suit was decreed in favour of the petitioner by the judgment and decree, dated 13.08.2003. Against the said judgement and decree, the respondent filed S.A.(MD)SR No.37994 of 2010 along with petition to condone the delay of 2468 days. The said application was dismissed on 14.12.2010. Subsequently, the respondent filed O.S.No.187 of 2011, for injunction for the very same property. The petitioner filed I.A.No.539 of 2012 to reject the plaint. The said application was allowed ex-parte and plaint was rejected. The respondent filed a petition under Section 5 of limitation Act to restore the I.A.No.539 of 2012 in O.S.No.187 of 2011 and the same was dismissed. The respondent filed C.R.P.No.1111 of 2015 and this Court, by the order, dated 01.07.2015 disposed the C.R.P., and directed the respondent to file counter in I.A.No.539 of 2012 on or before 31st July, 2015 and directed the learned trial Judge to dispose of the application in I.A.No.539 of 2012 on merits



and as per law. As per the orders of this Court, the trial Court heard the I.A.No.539 of 2012 on merits and allowed the said I.A., and rejected the plaint filed by the respondent. Pending C.R.P., the respondent filed O.S.No.267 of 2015 for declaration and permanent injunction in respect of the same properties. Immediately, the petitioner filed I.A., to reject the plaint on the ground that the earlier suit filed by the respondent was rejected. The learned Judge returned the application stating that the earlier proceedings stated by the petitioner was not enclosed to decide the suit as barred by res-judicata. Again the petitioner re-presented the same on 20.01.2016 stating that the earlier proceedings order copy will be produced during the enquiry. The learned Judge returned the application stating that as to how the petition is maintainable. Against the said return, the petitioner has come out with the present petition.

2.The learned counsel for the petitioner stated that the learned Judge failed to see the earlier proceedings filed by the petitioner and order passed by this Court. The learned Judge failed to appreciate the suppression of previous suits and dismissal of the Second Appeal by this Court.

3.Heard Mr.R.Ramasamy, learned counsel appearing for the petitioner.

4. I have heard the arguments of the counsel for the petitioner and carefully perused the entire materials on record.

5.From the records, it is seen that the petitioner filed a petition to reject the plaint in O.S.No.267 of 2015. The learned Judge has raised the question of maintainability to reject the plaint on the ground that he has not enclosed the earlier proceedings. Now the learned counsel for the petitioner submitted that he will produce the earlier proceedings along with application. On such production, the learned Principal Sub Judge, Madurai is directed to decide the application on merits and dispose the same in accordance with law as expeditiously as possible, on or before 30th June, 2016.

6.In the result, the Civil Revision Petition is disposed of. No cost. Consequently, connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To
The Principal Subordinate Judge, Madurai

+ 1 CC TO MR.R.RAMASAMY, ADVOCATE IN SR NO. 10423

AM

TE/AN-MP/ : 27/04/2016 : 2P/3C

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