

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.09.2019

CORAM :

THE HON'BLE MR. JUSTICE M.DURAI SWAMY

C.R.P.(NPD).No.1357 of 2012

L. Baskaran

... Petitioner

v.

1. National Human Resource Manager,
DHL Express India Pvt. Ltd.,
8th Floor, Dheeraj Arma,
A.K. Marg, Bhandra (East),
Mumbai – 400 052.

2. South India Operations Manager,
South, DHL Express India Pvt. Ltd.
No.12-B, South Phase,
Guindy Industrial Estate,
Guindy, Chennai – 600 032.

3. The Gateway Manager, Chennai,
M/s. DHL Express India Pvt. Ltd.
No.12-B, South Phase,
Guindy Industrial Estate,
Guindy, Chennai – 600 032.

... Respondents

Civil Revision Petition filed under Section 115 of the Code of Civil Procedure, against the order dated 02.08.2012 made in I.A.No.1344 of 2012 in O.S.No.1243 of 2011 on the file of the VII Additional Judge, City Civil Court, Chennai.

For Petitioners : Mr. V.P.Rajendran
For Respondent : Mr. P. Raghunathan
for M/s. T.S. Gopalan & Co.

ORDER

Challenging the order passed in I.A.No.1344 of 2012 in O.S.No.1243 of 2011 on the file of the VII Additional Judge, City Civil Court, Chennai, the plaintiff filed the above Civil Revision Petition.

2. The plaintiff filed the suit in O.S.No.1243 of 2011 claiming damages of Rs.25,00,000/- along with interest for the act of giving false complaint and publishing defamatory publication in News Paper committed by the defendants.

3. Originally, the suit was filed on the Original Side of

this Court in C.S.No.120 of 2008 and subsequently, the same was transferred to the file of City Civil Court, Chennai and re-numbered as O.S.No.1243 of 2011. In the said suit, the defendants 1 to 3 filed an application in I.A.No.1344 of 2012 under Order VII, Rule 11 of C.P.C. to reject the plaint. The main contention of the defendants 1 to 3 in the application was that the claim made by the plaintiff in the suit is barred by limitation. The application filed by the defendants was opposed and contested by the plaintiff. .

4. The Trial Court, taking into consideration the case of both the parties, allowed the application in I.A.No.1344 of 2012 and rejected the plaint. Aggrieved over the same, the plaintiff has filed the above Civil Revision Petition under Section 115 of the Code of Civil Procedure.

5. The learned counsel appearing for the respondents 1 to 3/defendants 1 to 3 submitted that the Civil Revision Petition filed by the plaintiff is not maintainable for the reason that the order of rejection of plaint under Order VII, Rule 11 of C.P.C, has the force of a decree and therefore, only a regular appeal shall lie under the Civil Procedure Code. In support of his contentions, the learned counsel relied upon an

unreported order made by the Division Bench of this Court dated 28.08.2014 in C.R.P.(PD) No.1211 of 2013 etc. batch, wherein, the Division Bench of this Court held as follows:-

“... 11. The Learned Counsel for the Petitioner/1st Defendant (in Civil Revision Petition (PD) No.1436 of 2013) contends that the Petitioner / 1st Defendant filed I.A.No.522 of 2009 in O.S.No.185 of 2006 on the file of the Learned II Additional Subordinate Judge, Coimbatore under Order VII Rule 6, 11 & Order XV of C.P.C praying for passing of an order to reject the plaint filed by the Respondent/Plaintiff and on 28.08.2012, the trial Court rejected the application among other things observing that the question of limitation is 'Mixed question of Fact' and Law to be established by adducing the necessary evidence at trial and a plaint is not liable to be rejected on the ground of limitation etc., and consequently, dismissed the petition with costs.

....

32. If a Court of Law passes an order for rejection of plaint under Order 7 Rule 11 of CPC, it has the force of 'Decree' and therefore, regular 'Appeal' lies under Civil Procedure Code and in fact, no 'Revision' would lie.

33. This Court has already held for the first question under reference that against an order declining to reject a plaint filed under Order 7 Rule 11 of CPC passed by a Court and Subordinate to High Court only 'Revision' lies and no 'Appeal' is maintainable. ..."

6. From the above order, it is clear that an order for rejection of plaint under Order VII, Rule 11 of C.P.C, has the force of a decree and therefore, only a regular appeal shall lie under Civil Procedure Code and no revision would lie. Further, as against the order declining to reject the plaint under Order VII, Rule 11 of C.P.C, passed by the Subordinate Court, only a revision shall lie and no appeal is maintainable.

7. The ratio laid down by the Hon'ble Division Bench of this Court squarely applies to the present case.

8. Following the said ratio, I am of the considered view that the Civil Revision Petition filed by the plaintiff challenging the order of rejection of plaint is not maintainable. Accordingly, the Civil Revision Petition is dismissed. No costs.

27.09,2019

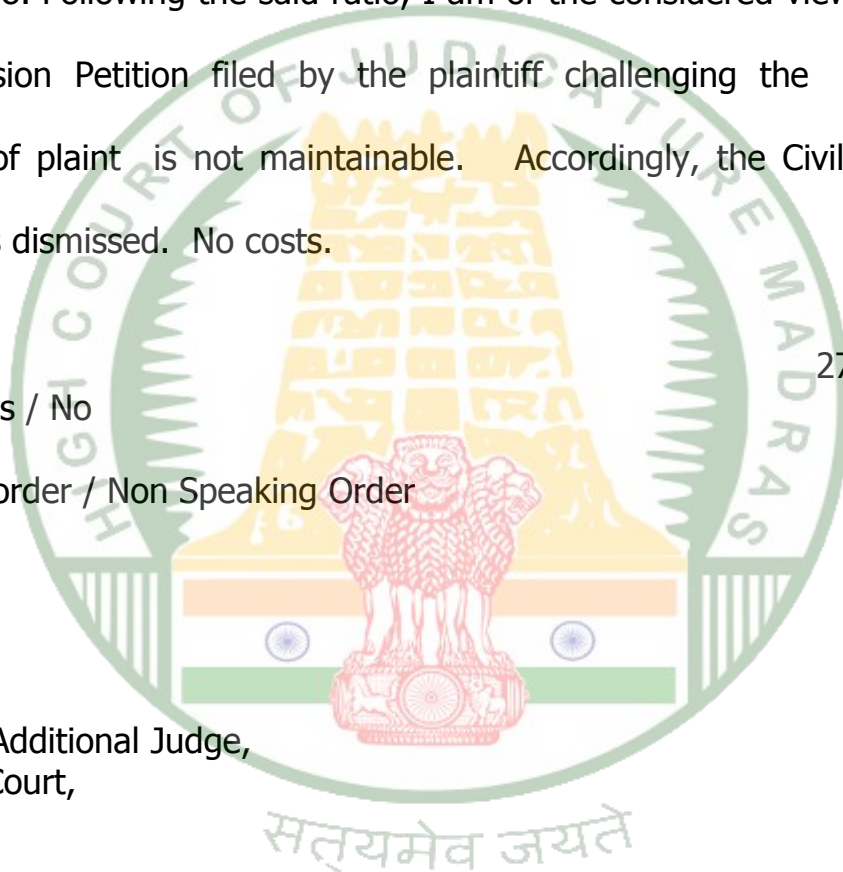
Index : Yes / No

Speaking order / Non Speaking Order

Rj

To

The VII Additional Judge,
City Civil Court,
Chennai.

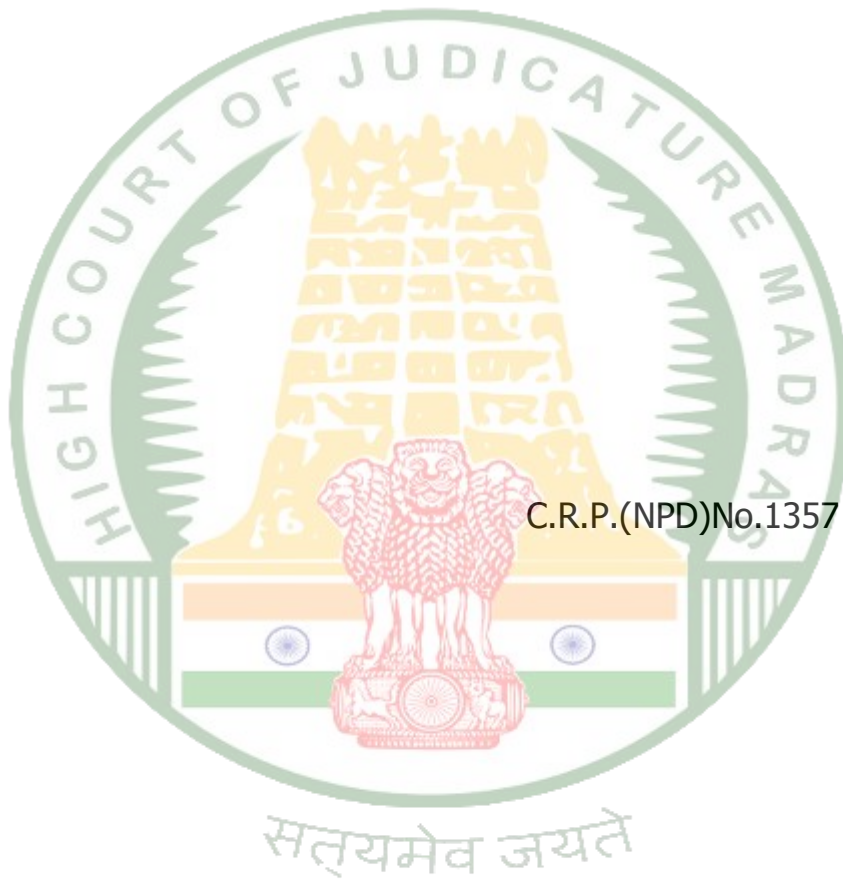


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M.DURAISWAMY, J.

Rj



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