

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2019

C O R A M

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.R.P.(PD)No.554 of 2018

and

CMP.No.2972 of 2018

1.M.Srinivasan

2.Lilly

... Petitioners

Vs.

1.R.Krishnappa

2.R.Raja

3.Sujatha

4.Kenjamma

5.Annaiya @ Nallappa

6.Muthamma

7.Shilpa

8.Ramamani

9.Minor. Muthuraj

... Respondents

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Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India to set aside the fair and decreetal order dated 14.11.2017 made in I.A.No.106 of 2016 in O.S.No.155 of 2014 on the file of the District Cum Judicial Magistrate – I, Hosur.

For Petitioners : Mr.R.Bharath Kumar
For Respondents : No Appearance

ORDER

Against the order of dismissal passed by the trial Court in a petition filed under Order 7 Rule 11 of Code of Civil Procedure for rejection of plaint in OS.No.155 of 2014, the petitioners/defendants are before this Court.

2. The main contention of the petitioners is that the suit is barred by *res-judicata* as the plaintiff has already suffered a decree which is pending appeal. The First Appellate Court after considering the facts had set aside the previous decree passed by the trial Court and had remanded the matter back to trial Court. In view of the order passed in appeal, the trial Court has held that the suit is not hit by *res-judicata* and dismissed the application. Admittedly, the decree has been set aside by the Appellate Court and the matter has not reached its finality. Therefore, dismissal of the petition for rejection of plaint does not suffer from any infirmity and the trial Court has rightly dismissed the application. Hence, the Civil Revision Petition is Dismissed. No costs. Consequently, connected miscellaneous petition is closed.

20.06.2019

Index:Yes/No

Internet:Yes/No

Speaking Order/Non Speaking Order

To

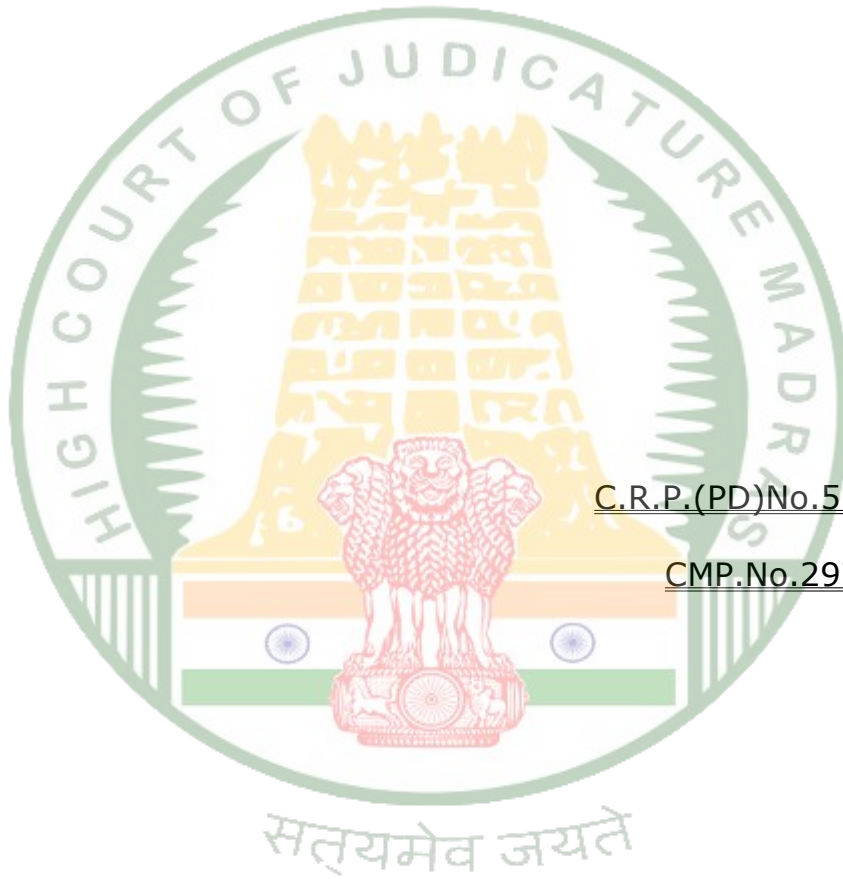
The District Cum Judicial Magistrate – I,
Hosur.



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M. GOVINDARAJ, J.

bri



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