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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.11.2019

CORAM

THE HONOURABLE **MS. JUSTICE P.T.ASHA**

C.R.P. (MD) No.1091 of 2013

and M.P. (MD) No.1 of 2013

1.G.Gurusamy (Died)
2.G.Suseela
3.G.Balamurugan
4.G.Prabhakaran
5.S.Nagajothi

... Petitioners

Vs.

1.G.Sadayaaramanujam
2.S.Andal
3.S.Sathan
4.G.Lathamani
5.G.Lakshmi Deepa

... Respondents

(R4 & R5 are brought on record as LR's of the deceased first petitioner vide Court order dated 16.10.2019, made in C.M.P. (MD) No.5700 of 2019 in C.R.P. (MD) No.1091 of 2013.)

PRAYER:- Civil Revision Petition filed under Section 115 of C.P.C., to set aside the fair and decreetal order dated 13.12.2012 made in I.A.No.358 of 2012 in A.S.No.23 of 2010 on the file of the Additional District Judge-cum- Fast Track Court at Periyakulam and to allow the above civil revision petition.

For Petitioners : Mr.P.Thiyagarajan

For Respondents : Mr.N.Mohan

ORDER

The above revision is filed by the defendants challenging the order passed by the Additional District Judge-cum- Fast Track Court, Periyakulam rejecting the application moved by the revision petitioners for receiving the additional written statement at the appeal stage.

2.The facts in brief, which are necessary to dispose of this petition are as follows:

(i)The respondents/plaintiffs have filed a suit in O.S.No.105 of 2007 on the file of the Sub Court, Periyakulam for the following reliefs:-

a)declaring the resolution passed on 30.06.2003 as

<https://hcservices.ecourts.gov.in/hcservices/> ultra virus.

b)declaring that the first defendant is disqualified for being the Director of the company



c) to pass a preliminary decree, directing the defendants to render the account from the year 2002 to till date within the time fixed by this Court

d) in case of failure to render the accounts as per the direction, to pass a final decree for rendition of accounts before the Advocate Commissioner appointed by this Court on application.

e) restraining the defendants from transacting the amount standing in the name of G.G.N. Spinning Mill Pvt. Ltd., Theni in various banks by a decree of injunction.

f) restraining the defendants from constructing the Prabhakar Spinning Mill Pvt. Ltd., way of injunction decree.

The suit was decreed and challenging the same, the revision petitioners herein had filed an appeal in A.S.No.23 of 2010. Pending appeal, the revision petitioners had originally come forward with an application for amending the written statement filed in O.S.No.119 of 2008 by filing I.A.No.65 of 2011. The said application was allowed and aggrieved over the same, the plaintiffs had filed C.R.P.(MD)No.1142 of 2011 before this Court. This Court, by an order dated 24.02.2012, was pleased to set aside the order. This order was taken up on challenge to the Hon'ble Supreme Court by the revision petitioners herein in S.L.P.No.18769 of 2012 and the said petition was dismissed, by an order dated 13.07.2012.

(ii) After dismissal of the said S.L.P., the revision petitioners came out with an application in I.A.No.358 of 2012 in A.S.No.23 of 2010 on the file of the Additional District Judge-cum-Fast Track Court at Periyakulam for receiving additional written statement. The said petition was resisted by the respondents/plaintiffs by drawing the attention of the Court to the earlier proceedings and the said application was also dismissed on 13.12.2012. Challenging the said order, the revision petitioners are before this Court.

3. Heard the learned counsel on either side.

4. Admittedly, the revision petitioners had taken out an application in I.A.No.65 of 2011 in A.S.No.23 of 2010 for the amending written statement. The said petition has been dismissed right up to the Hon'ble Supreme Court. In order to circumvent the said order, the revision petitioners have very cleverly taken out the present application for filing additional written statement. The petition is clearly barred by virtue of the orders passed by the Court below in I.A.No.65 of 2011, which has been confirmed right up by the Hon'ble Supreme Court.

5. I do not find any infirmity in the order passed in I.A.No.358 of 2012 in A.S.No.23 of 2010 by the learned Additional District Judge-cum-Fast Track Court, Periyakulam, since it is well open to the petitioner to prove his case through documents that have been marked while passing orders in I.A.No.65 of 2011. In the result,



the civil revision petition is dismissed. No costs.
Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

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// True Copy //

Sub Assistant Registrar(CS)

gns

To

The Additional District Judge-cum- Fast Track Court,
Periyakulam.

+1 CC to M/s.P.THIAGARAJAN, Advocate (SR-100468[F] dated 22/11/2019

+1 CC to M/s.N.MOHAN, Advocate (SR-100440[F] dated 22/11/2019)

C.R.P. (MD) No.1091 of 2013

21.11.2019

SMA/17/12/19/3P/4C