



WEB COPY



C.M.A.No.2317 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

C.M.A.No.2317 of 2021

And

C.M.P.No.12929 of 2021

David Clement

... Appellant

Vs.

1.M/s.Magnum Foundations (P) Ltd.,
Rep. by Director
T.S.Krishnan

S.Devaraj (Died)

2.Jothi
3.Maheshwari
4.Ganesan

... Respondents

Prayer:

Civil Miscellaneous Appeal filed under Order 43 Rule 1 of Civil Procedure Code, to set aside the judgment and decree as made in E.A.No.47 of 2015 in E.P.No.26 of 2013 in O.S.No.705 of 2012 dated 17.12.2020 on the file of the V Additional District Judge, Coimbatore.

For Appellant : Ms.S.Sasikala

For Respondents : Mr.M.S.Krishnan for R1
Senior Counsel
for M/s.Sarvabhauman Associates



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J U D G M E N T

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This appeal has been filed seeking to set aside the judgment and decree made in E.A.No.47 of 2015 in E.P.No.26 of 2013 in O.S.No.705 of 2012 dated 17.12.2020 on the file of the V Additional District Judge, Coimbatore.

2.When the matter was taken up for consideration, the learned Senior Counsel appearing for the first respondent submitted that as against the judgment and decree made in E.A.No.47 of 2015 in E.P.No.26 of 2013 in O.S.No.705 of 2012 dated 17.12.2020 on the file of the V Additional District Judge, Coimbatore, the very same appellant filed C.R.P.No.1376 of 2021 before this Court and the same was dismissed as withdrawn on 30.10.2023, however, as against the very same judgment and decree made in E.A.No.47 of 2015 in E.P.No.26 of 2013 in O.S.No.705 of 2012 dated 17.12.2020 on the file of the V Additional District Judge, Coimbatore, this civil miscellaneous appeal has been filed which is not sustainable one.

3.The learned counsel appearing for the appellant did not dispute the fact submitted by the learned Senior Counsel appearing for the first respondent.



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4.Since as against the very same judgment and decree made in E.A.No.47 of 2015 in E.P.No.26 of 2013 in O.S.No.705 of 2012 dated 17.12.2020 on the file of the V Additional District Judge, Coimbatore, the very same appellant has filed C.R.P.No.1376 of 2021 before this Court and the same was dismissed as withdrawn on 30.10.2023, the very same relief cannot be considered in this civil miscellaneous appeal.

5.In view of the above, the civil miscellaneous appeal is dismissed. The judgment and decree made in E.A.No.47 of 2015 in E.P.No.26 of 2013 in O.S.No.705 of 2012 dated 17.12.2020 on the file of the V Additional District Judge, Coimbatore, is confirmed. No costs. Consequently, the connected miscellaneous petition is closed.

10.01.2025

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Index: Yes/ No
Speaking Order: Yes/ No
NCC: Yes/ No

To

1.The V Additional District Judge, Coimbatore.

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M.DHANDAPANI,J.
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