

R. Babu Vs. K. Kumar

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Court : Chennai

Decided On : Jul-15-2016

Judge : M. Duraiswamy

Appeal No. : C.R.P.(NPD) No. 1977 of 2016 & C.M.P. No. 10376 of 2016

Appellant : R. Babu

Respondent : K. Kumar

Judgement :

(Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decreetal order passed in unnumbered O.S.No..... of 2015 dated 12.06.2015 on the file of the Subordinate Judge, Chidambaram.)

1. Challenging the rejection of Plaint under Order 7 Rule 11(d) of Civil Procedure Code, the plaintiff has filed the above Civil Revision Petition.
2. The plaintiff filed an unnumbered suit on the file of the Subordinate Court, Chidambaram for specific performance. The trial Court rejected the plaint under Order 7 Rule 11(d) CPC. Aggrieved over the same, the plaintiff has filed the above Civil Revision Petition.
3. In view of the order passed by the Division Bench of this Court in CRP (PD) Nos. 1211 of 2013 etc., batch, dated 28.8.2014, the Civil Revision Petition filed as against the rejection of plaint under Order 7 Rule 11 CPC is not maintainable. The

Division Bench of this court held that 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. In view of the order of the Division Bench of this Court, the present Civil Revision Petition is liable to be rejected.

4. In these circumstances, the learned counsel appearing on behalf of the petitioner sought permission of this court to withdraw the Civil Revision Petition with liberty to file an appeal as against the rejection of plaint in unnumbered O.S.No.....of 2015 and to that effect he has also made an endorsement in the memorandum of grounds in the Civil Revision Petition.

5. In view of the same, the above Civil Revision Petition stands dismissed as withdrawn. The plaintiff is at liberty to challenge the rejection of the plaint by filing an appeal in accordance with law before the appropriate Court. No costs. Consequently, connected miscellaneous petition is closed.

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