

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 8950 OF 2013
(arising out of S.L.P. (Civil) No. 20114 of 2011)

J.MUTHULAKSHMI & ORS. Appellant(s)

VERSUS

G.GURUNATHAN & ORS. Respondent(s)

O R D E R

Leave granted.

2. On hearing learned senior counsel for the petitioners and learned counsel for the respondents and on perusal of the order of the High Court impugned in the present appeal and also the order of the trial court, we are satisfied that the High Court exceeded its jurisdiction in interfering with the order of the trial court allowing appellants' application for amendment of the plaint. The High Court failed to keep in view that its jurisdiction under Section 115 of the Code of Civil Procedure, 1908 is limited and the order of the subordinate court can only be corrected under such jurisdiction if the subordinate court committed some error of jurisdiction as set out in clauses (a) to (c) of Section 115(1). Moreover, the High Court failed to take note of the proviso appended to Section 115 which mandates that the High Court shall not vary or reverse the order of the court subordinate to it in the course of a suit unless the reversal of order would have finally disposed of the suit or proceeding.

3. We, accordingly, set aside the impugned order and restore the order of the trial court.

4. We are informed that trial court has already framed issues including the issue of limitation. Obviously, the issue of limitation in respect of the amended relief shall also be considered by the trial court appropriately in accordance with law.

5. Appeal is allowed as above with no order as to costs.

.....J.
(R.M. LODHA)

NEW DELHI;J.
OCTOBER 4, 2013 (SHIVA KIRTI SINGH)

ITEM NO.205 COURT NO.3 SECTION XII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).20114/2011

(From the judgement and order dated 09/04/2011 in CRP No.1562/2010 of The

HIGH COURT OF MADRAS)

J.MUTHULAKSHMI & ORS.

Petitioner(s)

VERSUS

G.GURUNATHAN & ORS.

Respondent(s)

(With prayer for interim relief and office report)

[FOR FINAL DISPOSAL]

Date: 04/10/2013 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.M. LODHA
HON'BLE MR. JUSTICE SHIVA KIRTI SINGH

For Petitioner(s) Mr. R. Balasubramanian, Sr. Adv.
Mr. Narendra Kumar, Adv.
Mr. B. Karunakaran, Adv.

For Respondent(s) Mr. V. Balachandran, Adv.

UPON hearing counsel the Court made the following
O R D E R

Leave granted.
Appeal is allowed as above with no order as to costs.

|(Rajesh Dham)
|Court Master

| |(Renu Diwan)
| |Court Master

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(signed order is placed on the file)