

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2695 OF 2024
(@ SLP(C) No.8230/2021)

S. BALAKUMAR & ORS. Petitioner(s)

VERSUS

V. GOWRISHANKAR & ANR. Respondent(s)

O R D E R

1. Leave granted.
2. We are concerned with the impugned order which deals with an application under Order VII Rule 11 of the Code of Civil Procedure, 1908 (for short, 'the CPC') despite its rejection by the Trial Court by going into the question of fact and law qua limitation, apart from the effect of an order passed in an interlocutory application in the earlier suit permitting the appellant to withdraw the suit with liberty to initiate a fresh one.
3. We are of the view that the High Court has exceeded its jurisdiction by entertaining the said exercise instead of relegating it to trial.
4. In such view of the matter, without expressing anything on merit, particularly, the actual issues based on which the impugned order was passed, we set aside the same, to

be decided at the time of trial.

5. The appeal stands allowed and the impugned order of the High Court stands set aside.
6. The suit filed in O.S. No.310/2015 on the file of District Judge, Salem stands restored.
7. We once again make it clear that we have not expressed an opinion on any of the issues raised, including the question of limitation and the effect of the orders passed in the earlier suit.
8. Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[S.V.N. BHATTI]

NEW DELHI;
20TH FEBRUARY, 2024

ITEM NO.37

COURT NO.14

SECTION XII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 8230/2021

(Arising out of impugned final judgment and order dated 05-01-2021 in CRPPD No. 937/2019 passed by the High Court of Judicature at Madras)

S. BALAKUMAR & ORS.

Petitioner(s)

VERSUS

V. GOWRISHANKAR & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.72002/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No. 72002/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT, IA No. 92321/2021 - PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 20-02-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE S.V.N. BHATTI

For Petitioner(s) Mr. K. K. Mani, AOR
Ms. T. Archana, Adv.
Mr. Rajeev Gupta, Adv.

For Respondent(s) Mr. V. Prabhakar, Sr. Adv.
Mr. K. S. Mahadevan, Adv.
Mrs. Swati Bansal, Adv.
Mr. Rangarajan R, Adv.
Mr. Aravind Gopinathan, Adv.
Mr. Rajesh Kumar, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(Signed order is placed on the file)