
(1995) 04 MAD CK 0098

In the Madras High Court

Case No : Civil Revision Petition No. 376 of 1995

P. Gopalakrishnan

APPELLANT

Vs

P. Varalakshmi and another

RESPONDENT

Date of Decision : 20-04-1995

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 115

Citation : (1995) 04 MAD CK 0098

Hon'ble Judges : Abdul Hadi, J

Bench : Single Bench

Advocate : V. Shanmugham, for the Appellant; A.S. Raman, for the Respondent

Final Decision : Dismissed

Judgement

Abdul Hadi, J.—The plaintiff in O.S. No. 3391 of 1988, on the file of the X Assistant City Civil Court, Madras, has preferred this revision petition against the order dated 3.10.1994 in I.A. No. 16447 of 1991, filed by the defendants in the said suit for recasting the issue framed in the suit by framing certain additional issues, one of them being "Whether the plaintiff has title to the suit property". All that the Learned Counsel for the petitioner submits is that the plaintiff's suit is only for a bare injunction against interference with his possession and in such a suit there is no necessity to go into the question of title. But, I am unable to see the impugned order as a "case decided" within the meaning of Section 115, Civil Procedure Code. It is settled law that a case may be said to be decided when the Court adjudicates for the purposes of the suit, some right or obligation of the parties in controversy and every order in the suit cannot be regarded as a "case decided" - (vide Baldevdas Shivilal and Another Vs. Filmistan Distributors (India) P. Ltd. and Others, By simply framing the abovesaid additional issues it cannot be said that there is any adjudication of rights or obligations of the parties. So, on that simple ground the Civil Revision Petition has to be dismissed in limine. Even assuming a wrong issue has been framed, the petitioner, by that alone cannot be said to be prejudiced. It is open to him to establish that such an issue need not

be gone into in the suit in question. With that observation the Civil Revision Petition is dismissed in limine.