

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2015

CORAM

THE HONOURABLE MR. JUSTICE N. KIRUBAKARAN

C.M.A. NO. 1076 OF 2015

&

M.P. NO. 1 OF 2015

C. Shanmugam

..Appellant/Petitioner

Vs.

C. Balasubramanian

..Respondent

Prayer: Civil Miscellaneous Appeal as against the order and decretal order dated 07.10.2014 passed in P.O.P. No. 25 of 2013 by the Principal District Judge, Namakkal.

For Appellant :: Mr.T. Dhanyakumar

J U D G M E N T

This Civil Miscellaneous Appeal has been preferred by the proposed plaintiff challenging the order dated 07.10.2014 passed by the Principal District Judge, Namakkal, dismissing his application in P.O.P. No. 25 of 2013, which was filed to declare himself as an indigent person and permit him to file a suit as informa paupris.

2. Heard Mr.T. Dhanyakumar, learned counsel for the appellant.

3. It is evident from the records that the appellant filed a suit for a decree to set aside the sale deed dated 23.06.2010 and also for recovery of possession from the respondent herein on the ground that the suit B schedule property was forcibly taken over by extracting a document under force. Though the appellant contended before the Lower Court that he has got no means to pay the required court-fee, the Trial Court, taking into consideration, the receipt of a sum of Rs.15 lakhs as an advance by the appellant towards the sale of a portion of B schedule property, as proved by Exs-R1 to R4 and also admitted in paragraph No. 7 of the petition in P.O.P. No. 25 of 2013, dismissed the application.

4. Though the appellant received an advance of Rs.15 lakhs, on 3 occasions, i.e, Rs. 5 lakhs each on 01.04.2010, 08.05.2010, and 06.06.2010, which is also reflected in the sale

agreement, there is no explanation from the appellant as to what happened to the said amount. The above fact would only go to show that the appellant pretends as if he has got no means to pay the court-fee. The order of the Trial Court is based on evidence and the finding that the appellant received Rs.15 lakhs as early as on 2010. Having received the said amount of Rs.15 lakhs, it is not open to the appellant to contend that he does not have means to pay the court-fee. Hence, the Civil Miscellaneous Appeal fails and the same is dismissed. No costs. Connected M.P. is closed. It is open to the appellant to move the Trial Court to pay the appropriate court-fee, as per law.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

To
The Principal District Judge,
Namakkal

Copy to : The Section Officer V.R. Section,
High Court Madras.

+1cc to Mr. T. Dhanyakumar, Advocate SR 35747

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BR (CO)
RS 10.08.2015

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