

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2015

CORAM :

THE HONOURABLE MR. JUSTICE **D.HARIPARANTHAMAN**

C.R.P.(NPD) No.4119 of 2015

1.T.M.S.Srinivasan
2.S.Poongodi

..... Revision Petitioners 1 & 2

Vs.

1.M.Periannan
2.The District Collector,
Salem District.

..... Respondents

Revision petition has been filed against the order of sale passed in P.O.P.No.104 of 2013 order dated 25.06.2015 on the file of the Principal District Judge, Salem.

For Revision Petitioner : Mr.A.Esakkiappan

ORDER

Revision petitioners are the defendants in O.S.No.164 of 2015, on the file of the Principal District Judge, Salem. The first respondent herein is the plaintiff therein.

2.The first respondent/plaintiff filed P.O.P.No.104 of 2013 in O.S.No.164 of 2015, under Order 33 Rule 1 of CPC, to sue the suit as indigent person. The Trial Court allowed Pauper Original Petition No.104 of 2013 on 25.06.2015 in O.S.No.164 of 2015, under Order 33 Rule 1 of CPC, to sue the suit as indigent person. The Trial Court allowed the Pauper Original Petition No.104 of 2013 on 25.06.2015. This revision petition is against the order dated 25.06.2015 made in P.O.P.No.104 of 2013, on the file of the Principal District Judge, Salem.

3. Heard the learned counsel for the petitioner.

4. Learned counsel for the petitioner submits that the trial court committed grave error in allowing the application. According to him, the first respondent has sufficient means to pay the Court fee and still the first respondent filed the Pauper Original Petition claiming as if, he is an indigent person.

5. I have considered the rival submissions made by the learned counsel for the petitioners.

6. In the Pauper Original Petition No.104 of 2013, the first respondent examined himself and also examined other witnesses to prove that he is an indigent person and has also marked Exs.P1 to P6. The revision petitioner did not let in any evidence. The Court below in paragraph 6 of the order has held as follows:

" In the cross examination of P.W.1, it was suggested by the respondents that he is owning a house and his wife is running provision shop in the front portion of the said house and the petitioner is an Astrologer and earned money and he is also doing real estate business and before the filing of the petition he had sold so many properties in the name of benami, but beyond these suggestions nothing credible enough to prove that petitioner has means is established. To prove the income and occupation of the petitioner one Ramachandran was examined as P.W.2. He has stated that the petitioner is known to him and he is an Astrologer and he has no means to pay Court-fee now. Having regard to the status and the means mentioned by the petitioner, this Court is satisfied that he (petitioner) has no means to pay the court-fee to sue the suit. Hence, this Court is inclined to accept the case of the petitioner and to allow him to sue as indigent person. The point is answered accordingly."

D.HARIPARANTHAMAN, J.

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7. In view of the finding arrived at paragraph 6, the Trial Court allowed the Pauper Original Petition No.104 of 2013. I do not find any reason to interfere with the same. Hence, this Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

16.10.2015

Index : Yes/No

Internet : Yes/No

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To

1.The Principal District Judge, Salem.

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