

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2016

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

C.R.P (NPD) No.702 and 703 of 2011

T.P.Natarajan

... Petitioner in the above
Civil Revision Petitions

vs.

Vijayalakshmi @ Aray Ammal

... Respondent in the above
Civil Revision Petitions

Civil Revision Petition (NPD)No.702 of 2011 filed under Section 115 of CPC against the fair and decretal order passed in I.A.No.130 of 2009 in O.S.No.1412 of 1990 dated 11.11.2009 by the Principal Subordinate Judge, Coimbatore.

Civil Revision Petition (NPD)No.703 of 2011 filed under Section 115 of CPC against the fair and decretal order passed in I.A.No.131 of 2009 in O.S.No.1412 of 1990 dated 11.11.2009 by the Principal Subordinate Judge, Coimbatore.

For Petitioner : Ms.V.S.Usha Rani

For Respondent : Mr.V.Ashok
for Mr.Su.Srinivasan

ORDER

Both the Civil Revision Petitions arise against the common order dated 11.11.2009 passed in I.A.Nos.130 and 131 of 2009 in O.S.No.1412 of 1990 on the file of the Principal Subordinate Judge, Coimbatore.

2. The respondent herein filed the suit in O.S.No.1412 of 1990 praying for the grant of recovery of possession against the defendant/revision petitioner herein on the file of the II Additional Subordinate Judge, Coimbatore. The defendant/revision petitioner filed a Written Statement denying the allegations made in the plaint. On the contrary, the revision petitioner herein filed a suit in O.S.No.838 of 1990 on the file of the Subordinate Judge, Coimbatore, against the respondent herein, for recovery of amount to the tune of Rs.61,110/- in respect of promisory note executed by the respondent/plaintiff. Another suit in O.S.No.175 of 1993 was also filed by the defendant/revision petitioner against the respondent seeking for permanent injunction. By a common Judgment dated 8.12.1993, the Principal Subordinate Judge, Coimbatore, decreed the suit in O.S.No.1412 of 1990 filed by the respondent; and decreed the suit in O.S.No.838 of 1990 to the extent of a principal sum of Rs.45,000/- only along with proportionate costs whereas the suit in O.S.No.175 of 1993 filed by the revision petitioner praying for permanent injunction was dismissed.

3. Aggrieved against the said common judgment, the revision

petitioner filed an Appeal Suit in A.S.No.281 of 1994 before this Court against the suit in O.S.No.175 of 1993. Appeal Suit in A.S.No.32 of 1994 was filed against the suit in O.S.No.838 of 1990 before the Principal District Judge, Coimbatore. Similarly, Appeal Suit in A.S.No.27 of 1994 along with I.A.No.382 of 1994 for stay was filed against the suit in O.S.No.1412 of 1990 before the Principal District Judge, Coimbatore. When the Appeal came up for admission, viz., A.S.No.27 of 1994, along with I.A.No.382 of 1994, interim stay was granted in I.A.No.382 of 1994 on condition that the revision petitioner should deposit a sum of Rs.30,000/- before the Trial Court.

4. As the Appeal in A.S.No.281 of 1994 came up for hearing before this Court, the other appeals, viz., A.S.No.27 of 1994 and A.S.No.32 of 1994 was transferred to this Court as Tr.A.S.Nos.102 and 103 of 2007 for hearing all the matters together and for disposal. Upon hearing the arguments advanced by the learned counsel for the parties and perusing the materials on record, this Court dismissed all the three Appeals by Judgment dated 25.07.2007. Subsequently, the respondent herein filed an Interlocutory Application in I.A.No.130 of 2009 in O.S.No.1412 of 1990 before the Principal Subordinate Judge, Coimbatore, praying to issue a cheque for a sum of Rs.30,000/- in favour of her counsel, Mr.V.V.Sankaran, which was in deposit pursuant to the direction of the District Judge, Coimbatore in A.S.No.27 of 1994, on the ground that the revision petitioner has to pay arrears till the date of delivery of possession. On the other hand,

the respondent filed an Interlocutory Application in I.A.No.131 of 2009 in O.S.No.1412 of 1990 praying to issue a cheque in favour of his counsel, Mr.K.Vijayakumar, for a sum of Rs.30,000/-.

5. Heard Ms.V.S.Usha Rani, learned counsel appearing for the revision petitioner and Mr.V.Ashok, learned representing counsel for Mr.Su.Srinivasan, learned counsel, on record for the respondent and perused the impugned order.

6. The only point that arises for consideration in this case is that who is entitled to receive the amount of Rs.30,000/- lying in Court deposit as stated above. It is pertinent to note that the respondent has filed a suit in O.S.No.657 of 2010 before the Principal Subordinate Court, Coimbatore, for damages. The said suit was dismissed on 16.3.2015. In view of the same, this Court is of the view that the revision petitioner is entitled to withdraw the said amount of Rs.30,000/-, which was in deposit on the file of the Trial Court pursuant to the order passed in I.A.No.382 of 1994 in A.S.No.27 of 1994 against O.S.No.1412 of 1990.

7. In the light of the above discussions and considering the facts of the case, I am inclined to pass the following orders:-

(i) The common order dated 11.11.2009, with regard to I.A.Nos.130 of 2009 and 131 of 2009 in O.S.No.1412 of 1990, on the file of the Principal Subordinate Judge, Coimbatore, are set aside and the Civil Revision Petitions are allowed. No costs.

(ii) The revision petitioner is permitted to file an Application before the Trial Court to withdraw the amount of Rs.30,000/- (Rupees thirty thousand only) deposited pursuant to the order dated 28.6.1994 passed in I.A.No.382 of 1994 in A.S.No.27 of 1994 on the file of the Principal District Judge, Coimbatore.

(iii) On filing of such application, the Trial Court is directed to pass appropriate orders for withdrawal of the amount of Rs.30,000/- (Rupees thirty thousand only) within a period of four weeks from the date of receipt of a copy of this order.

29.04.2016

Index : yes / no

Internet :yes / no

asvm

D.KRISHNAKUMAR, J.

(asvm)

To
The Principal Subordinate Judge,
Coimbatore.

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