



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.11.2016

CORAM:

THE HONOURABLE Mr.JUSTICE D.KRISHNAKUMAR

C.R.P.PD(MD)Nos.1824 and 1825 of 2016

and

C.M.P. (MD)No.8801 of 2016

C.R.P. (MD)No.1824 of 2016:

Paramasivam

... Petitioner/Petitioner/Defendant
Vs.

R.Rajendran

... Respondent/Respondent/Plaintiff

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the returned endorsement dated 02.09.2016 in an interlocutory application for rejection of plaint in unnumbered I.A.SR.No.6632 of 2016 in O.S.No.154 of 2014 on the file of the Additional Subordinate Judge, Karur.

C.R.P. (MD)No.1825 of 2016:

Paramasivam

... Petitioner/Petitioner/Defendant
Vs.

R.Rajendran

... Respondent/Respondent/Plaintiff

Prayer: The Civil Revision Petition is filed under Article 227 of the Constitution of India, against the returned endorsement dated 02.09.2016 in an interlocutory application for rejection of plaint in unnumbered I.A.SR.No.5836 of 2016 in O.S.No.154 of 2014 on the file of the Additional Subordinate Judge, Karur.

For Petitioner : Mr.D.Rameshkumar

For Respondent : Mr.E.K.Kumaresan

COMMON ORDER

The Civil Revision Petition in C.R.P.(MD)No.1824 of 2016 is filed against the returned endorsement dated 02.09.2016 in an interlocutory application for rejection of plaint in I.A.SR.No.6632 of 2016 in O.S.No.154 of 2014 on the file of the Additional Subordinate Court, Karur.

2.The learned counsel for the petitioner submitted that the aforesaid application was filed under Order 7 Rule 11 CPC to reject the plaint. The said application was returned on the ground that after argument, the case is posted for judgment and hence, the same is rejected. Challenging the said return, the petitioner filed the present Civil Revision Petition.



3. According to the petitioner, no cause of action arises at Karur. Therefore, this application has been filed.

4. The learned counsel for the respondent submitted that the petitioner has not objected for territorial jurisdiction pending trial. When the matter was taken up for trial, the evidence was concluded, both sides arguments were completed and posted for judgment, at this stage, the present application has been filed in order to protract the matter, since the respondent has filed the suit for recovery of money on the basis of promissory note. Hence, there is no interference is necessary in the order passed by the Trial Court.

5. The learned counsel for the respondent pointed out that at this stage the petitioner cannot file this application under Order 7 Rule 11 CPC. The petitioner should have been vigilant and filed the said application at appropriate stage. Therefore, the said application has to be dismissed on the ground of delay.

6. In view of the submission made by the parties concerned, the facts of the case in the present Civil Revision petition is as follows:

The respondent herein has filed the suit in O.S.No.154 of 2014 for recovery of money against the revision petitioner. In the aforesaid suit, the plaintiff as well as the defendant's side evidence and arguments were concluded and the case is posted for Judgment. The present application in unnumbered I.A. has been filed by the revision petitioner to reject the plaint under Order 7 Rule 11 CPC on the ground that there is no territorial jurisdiction at Karur. The Civil Revision petition is filed only for numbering the application in I.A.

7. The revision petitioner has filed the said application belatedly before the Court below under Order 7 Rule 11 CPC., after hearing the argument on both sides and posted for judgment. The petitioner has raised territorial jurisdiction in the present Application and therefore, in the interest of justice and by consent of both parties, the additional issues can be framed by the trial court with regard to the territorial jurisdiction to decide the territorial jurisdiction in the present suit itself.

8. Further it is submitted by both the petitioner as well as the respondent that the parties shall cooperate for framing aforesaid additional issues in the aforesaid suit and there shall be no further evidence to be adduced for the additional issues framed in the suit.

9. By considering the submissions made by the parties, in the interest of justice, and by consent of parties, the Trial Court is directed to frame the additional issues in the suit and to decide the issue whether the cause of action arises at Karur or not, after providing opportunity to the parties concerned.

10. This Civil Revision Petition is disposed of with the above observation.



11. In view of the order passed in C.R.P.D.(MD)No.1824 of 2016 against unnumbered I.A.to reopen the suit for the purpose of filing aforesaid application, C.R.P.D(MD)No.1825 of 2016 is dismissed as infructuous.

No costs. Consequently, connected C.M.P.is closed.

Sd/-

Assistant Registrar(Records)

/TRUE COPY/

Sub Assistant Registrar

To

The Additional Subordinate Judge, Karur.

+1 cc to Mr.E.K.Kumaresan, Advocate, SR.No:69920

+2 cc to Mr.D.Rameshkumar, Advocate, SR.No:69661

nbg

sva/bs/27.02.2017/3p/5c

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