



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.02.2016

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CORAM:

THE HONOURABLE MS.JUSTICE V.M. VELUMANI

CRP(PD) (MD).No.201 of 2016 and  
CMP(MD).No.867 of 2016

Harun Natharsha : Petitioner

Vs.

Sheik Abdul Kader : Respondent

Civil Revision Petition is filed under Article 227 of the constitution of India against the fair and decreetal order passed in I.A.No.124 of 2015 in O.S.No.10 of 2015 on the file of the Principal District Munsif Court, Thirunelveli, dated 21.07.2015.

For Petitioner : Mr. T. Selvan  
For Respondent : Mr. S.P. Maharajan

### O R D E R

The Civil Revision Petition is filed against the fair and decreetal order passed in I.A.No.124 of 2015 in O.S.No.10 of 2015, on the file of Principal District Munsif Court, Thirunelveli, dated 21.07.2015.

2. The revision petitioner is the defendant and the respondent is the plaintiff in O.S.No.10 of 2015 on the file of Principal District Munsif Court, Thirunelveli. The revision petitioner filed I.A.No.124 of 2015 in O.S.No.10 of 2015, on the file of the Principal District Court, Thirunelveli, under Order 7 Rule 11(d) and Sec.151 of CPC to reject the plaint.

3. According to the revision petitioner, Document No.2 filed along with plaint is insufficiently stamped, as per Schedule I, Article 49(b) of Stamp Act. The respondent / plaintiff resisted the same and stated that whether the document is sufficiently stamped or not, it can be decided only at the time of marking documents, during trial. The learned Trial Judge has considered all the materials on record and the arguments of the learned counsels on either side and the Judgments relied on by



them, dismissed the Interlocutory Application filed for rejecting the plaint. Against the said order, the revision petitioner, who is the defendant in O.S.No.10 of 2015 has filed the present Civil Revision Petition.

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4. The learned counsel appearing for the revision petitioner submitted that the learned Trial Judge failed to consider that as per Schedule I, Article 49(b) of the Stamp Act, Document No.2 is insufficiently stamped and the respondent / plaintiff cannot rely on the said document and therefore, the suit is not maintainable.

5. Mr.S.P. Maharajan, the learned counsel appearing for the caveator submitted that as per Order 7 Rule 11(d) of C.P.C, it is not appealable as alleged by the revision petitioner and the issue as to whether the document is sufficiently stamped or not could be decided only at the time of trial. Further, the learned Trial Judge has given proper and valid reason while dismissing the application and therefore, prayed for dismissal of this revision.

6. I have heard the learned counsels appearing on either side and perused the materials on record.

7. The contention of the learned counsel for the revision petitioner that the plaint is liable to be rejected as per the Order 7 Rule 11(d) of CPC, as the Document No.2 is insufficiently stamped. Order 7 Rule 11 of CPC reads as follows:-

*11. Rejection of the plaint:- The plaint shall be rejected in the following cases:-*

*(a) where it does not disclose a cause of action;*

*(b) where the relief claimed is undervalued, and the plaintiff, on being required by the Court to correct valuation within a time to be fixed by the Court, fails to do so;*

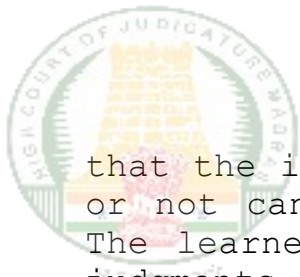
*(c) where the relief claimed is properly valued but the plaint is written upon paper insufficiently stamped, and the plaintiff, on being required by the Court to supply the requisite stamp-paper, within a time to be fixed by the Court, fails to do so;*

*(d) where the suit appears from the statement in the plaint to be barred by any law;*

*(e) where it is not filed in duplicate*

*(f) Where the plaintiff fails to comply with the provisions of rule 9.*

<https://hcservices.ecourts.gov.in/hcservices/rest> the Order 7 Rule 11(d) of CPC, the contention of the learned counsel for the petitioner is untenable. On the other hand, the submission of the learned counsel for the Caveator is



that the issue whether the Document Nos. 2 is sufficiently stamped or not can be decided only at the time of trial is acceptable. The learned Trial Judge has considered the document No.2 and the judgments relied on by the learned counsel for the petitioner and passed an order in proper perspective and therefore, there is no reason warranting interference by this court.

9. In view of the above, the Civil revision petition is dismissed confirming the impugned order of the learned Principal District Munsif Court, Thirunelveli passed in I.A.No.124 of 2015 in O.S.No.10 of 2015, dated 21.07.2015. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

**To**

The Principal District Munsif, Thirunelveli.

+1cc to Mr.S.P.Maharajan, Advocate Sr.No.7091

trp

AA/NGM-SS/23.03.2016/3p-3c

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