

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

CRP.No.1443/2017

K.Thirugnanasambandam

...Petitioner/Plaintiff

..Vs..

1.The Executive Engineer, PWD,
Vellar Basin Circle Office,
Vridhachalam.

2.The Executive Engineer,
Coleroon Basin Division,
Chidambaram.

3.The Superintending Engineer,
Vellar Basin Circle Office,
Cuddalore.

4.State of Tamil Nadu,
By its District Collector,
Cuddalore.

...Respondents/Defendants.

Prayer:- Civil Revision Petition filed under article 227 of Constitution of India to set aside the order and decreetal order passed by the Learned Principal District Judge, Cuddalore in I.A.No.435 of 2015 in O.S.No.42 of 2006 dated 04.11.2016 and allow the Civil Revision petition.

For Petitioner : Mr.V.Selvaraj
for M/s.D.Jayasingh

ORDER

The Civil Revision Petition is taken up for final disposal at the admission stage itself.

2.According to the petitioner, he has filed the suit for recovery and valued the suit for Rs.7,03,151/- and paid Court fee of Rs.52,740.50 under Section 22 of Tamil Nadu Court Fees Act, 1955. But, the suit relief as prayed in the said suit is as follows:

"Decree the suit against the defendants for a sum of Rs.4,66,083/- along with interest at 18% per annum from the date of plaintiff till recovery".

By the judgment dated 12.07.2007, the District Judge, Cuddalore dismissed the suit. Against the said judgment and decree, the petitioner filed an appeal in A.S.No.391/2008 before this Court. By Judgment and Decree dated 10.02.2011, this Court after considering the oral and documentary evidence allowed the Appeal Suit and granted the relief as prayed for by the petitioner/plaintiff. Due to typographical mistake, the total claim amount was wrongly mentioned in the plaint prayer as Rs.4,66,083/- instead of Rs.7,03,151/- and therefore, there is a difference of Rs.2,37,068/-. Hence, the petitioner/plaintiff has filed I.A.No.435 of 2015 for amendment of the plaint. However, the trial Court without considering the case of the petitioner, erroneously dismissed the said application. Therefore, the petitioner has filed the present Civil Revision Petition.

3. Heard the learned counsel for the petitioner and perused the materials placed before this Court.

4. According to the petitioner, the petitioner has filed the suit in O.S.No.42/2006, District Court, Cuddalore. In the aforesaid suit, the petitioner has prayed for the relief to decree a sum of Rs.4,66,083/- along with the interest at the rate of 18%. The aforesaid suit was dismissed by the trial Court, and the petitioner has preferred an appeal against the judgment and decree passed by the trial Court in O.S.No.42/2006. In the appeal, by judgment and decree dated 10.02.2011 this Court has reversed the judgment and decree passed by the trial Court and decreed the suit as prayed for in the plaint for an amount of Rs.4,66,083/- along with the interest. The petitioner filed the present application in I.A.No.435/2015 before the Principal District Court, Cuddalore to amend the plaint for recovery stating that the amount was wrongly mentioned as Rs.4,66,083/- instead of Rs.7,03,151/- and in order to prove the said contention, the learned counsel for the petitioner relied on the details of valuation and stated that the Court Fee of Rs.52,740.50 was paid valuing the suit at Rs.7,03,151/- and stated that necessary documents have already been filed before the trial Court and prayed that the amendment application filed by the petitioner can be entertained to grant the relief.

5. The said contention of the learned counsel for the petitioner cannot be accepted. The amendment petition was filed under Order VI Rule 17 of the Code of Civil Procedure seeking the following relief:

"..in the plaint in prayer column para VI(a)
substitute the amount of Rs.4,66,083/- by
Rs.7,03,151/-"

The petitioner has to file an application in the appropriate stage and not at this stage. The suit was decided on the basis of oral and documentary evidence adduced on both sides. Even after the dismissal of the suit, the petitioner has preferred an appeal before this Court. Even in the appeal, the petitioner has not chosen to file an application for amendment. Therefore, the petition filed by the petitioner for amendment cannot be accepted and the order passed by the Court below does not warrant any interference from this Court. There is no error or illegality in the order passed by the Court below. Hence, The Civil Revision Petition is dismissed. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

KP
To

The Principal District Judge,
Cuddalore District,
Cuddalore.

CRP.No.1443/2017

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srg 13/06/2017

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