

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.10.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.249 of 2011
& M.P.No.1 of 2011

1.Anjappa
2.Jayamma (died)
3.Pappamma
4.Venkatesappa
5.Munirathina
6.Manjula
7.Manohar
8.Rajasekar (Minor)
rep. by his natural guardian-father
Venkatesappa .. Petitioners

Vs.

1.Nadupappa
2.Pillappa
3.Krishnappa
4.Chowdappa
5.Madhi Reddy
6.Narayanappa .. Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, against the fair and decretal order dated 18.10.2010 made in I.A.No.485 of 2010 in O.S.No.138 of 1999 on the file of the District Munsif Court, Hosur.

For Petitioners : Mr.T.Arockia Dass
For Respondents
1, 2 and 4 to 6 : Mr.V.Lakshminarayanan

R3 : died vide order dated 06.07.2017
made in M.P.No.4 of 2011

ORDER

The Civil Revision Petition is filed against the fair and decreetal order dated 18.10.2010 made in I.A.No.485 of 2010 in O.S.No.138 of 1999 on the file of the District Munsif Court, Hosur.

2. Heard the learned counsel for the petitioners as well as the respondents 1, 2 and 4 to 6 and perused the materials available on record.

3. The petitioners are the plaintiffs and respondents are the defendants in O.S.No.138 of 1999 on the file of the District Munsif Court, Hosur. The petitioners filed suit for declaration of title to the suit property and for permanent injunction. The respondents filed written statement and are contesting the suit. While the suit was pending, a portion of the suit property was acquired by the Government and award was passed on 28.07.2009 in L.A.O.P.No.13 of 2007 and award was passed on 12.08.2009 in L.A.O.P.No.22 of

2007. The petitioners filed I.A.No.1051 of 2009 for amendment of the plaint to include the relief of declaration that the petitioners are entitled to receive the compensation awarded by the Government and for injunction restraining the respondents from preventing the petitioners from seeking compensation. By the order dated 04.01.2010 made in I.A.No.1051 of 2009, a conditional order was passed stating that as and when compensation payable to the petitioners is quantified, the petitioners must pay the Court fee on the award amount.

4. The petitioners filed the present I.A.No.485 of 2010 for permission to withdraw the present suit with liberty to file a fresh suit on the same cause of action and on additional new cause of action arisen pending suit. The petitioners have sought for the said relief on the ground that the learned Subordinate Judge, Hosur, has awarded a sum of Rs.45,64,650/- and Rs.18,37,613/- in L.A.O.P.Nos.13 and 22 of 2007 respectively. The petitioners are seeking declaration that they are entitled to receive the said amount. In view of the said relief, the learned District Munsif, Hosur, has no pecuniary jurisdiction. After withdrawal of the present suit, the petitioners will file fresh suit on the same cause of action in

competent Court having pecuniary jurisdiction. The learned Judge dismissed the said application on the ground that the petitioners have not paid Court fee in I.A.No.1051 of 2009 as per the order dated 04.01.2010.

5. In view of the above facts, there is no irregularity or illegality warranting interference by this Court with the order of the learned Judge dated 18.10.2010. It is open to the petitioners to pay the Court fee on the amount awarded within eight weeks from the date of receipt of a copy of this order. On such payment, the learned Judge is directed to consider the application afresh on merits. If the petitioners fail to pay the Court fee within the time limit granted by this Court, the order of the learned Judge dated 18.10.2010 dismissing the application will be confirmed.

6. With the above direction, the Civil Revision Petition is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

20.10.2017

Index : Yes/No
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V.M.VELUMANI, J.

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To

The District Munsif, Hosur.



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