



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.10.2017

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

C.R.P. (MD) .No.1778 of 2017(PD)

Anish (Minor)
S/o.Thankaraj
Represented by Mother and Guardian
V.Rajam ... Petitioner
Vs.
Thankaraj ... Respondent

Prayer: Petition filed under Section 115 of C.P.C to set aside the order and decreetal order passed in I.O.P.No.79 of 2015 dated 06.03.2017 on the file of Subordinate Judge, Padmanabhapuram.

For Petitioner : Mr.K.Sreekumaran Nair

For Respondent : Mr.E.V.N.Siva

Order

The petitioner herein is the son of the respondent. The petitioner herein filed O.S.No.198 of 2013 on the file of the Additional District Munsif Court, Padmanabhapuram, seeking the future maintenance at the rate of Rs.1100/- per month from the respondent herein and also for creation of charge over the plaint schedule properties. The suit was partly decreed on 23.06.2015.

2.Aggrieved by the same, the respondent herein filed appeal before the Sub Court. Since according to the respondent he had no means to pay the Court fee, he filed I.O.P.No.79 of 2015 seeking leave to file the appeal as informa pauperis. After getting report from the revenue authority the said I.O.P. 79 of 2015 was allowed on 06.03.2017. The respondent herein was granted leave to proceed with the appeal without payment of Court fee and the appeal filed by him was ordered to be numbered. It is this that is questioned in this civil revision petition.

3.Heard the learned counsel for the parties.

4.The learned counsel for the revision petitioner would contend that the respondent had already admitted his means in O.S.No.198 of 2013. It was also pointed out that it has already



been held in P.O.P.No.180 of 2012 that the respondent was not an indigent person. The respondent has filed C.R.P.No.1933 of 2015 challenging the said order.

5.I am of the view that in matters pertaining to payment of Court fee, the other party to the litigation will not have any say, unless it pertains to the jurisdiction of the Court itself. The revision petitioner herein must contest the matters on merits. The grant of exemption from payment of Court fee for the respondent herein will not in any way affect the rights of the revision petitioner.

6.Therefore, I am of the view that the order passed by the First Appellate Court does not call for any interference. The report filed by the Government Pleader was taken into account. The Lower Appellate Court was satisfied with the materials available before it that the respondent herein was an indigent person and that he does not have the means to pay the Court fee. The order does not call for any intervention. There is no merit in this civil revision petition.

6.The Civil Revision Petition stands dismissed. No costs. Consequently connected civil miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

The Subordinate Judge, Padmanabhapuram.

+1cc to Mr.E.V.N.SIVA Advocate in SR. No. 84527

TSG

JS/SV.MMS/SAR.1/6.11.2017/2P-3C

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