



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 02.01.2017

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI
C.R.P (MD) Nos.2621 & 2622 of 2016 (PD)

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C.R.P (MD) No.2621 of 2016

K.Pandian .. Petitioner/Petitioner/Appellant/
Defendant
Vs.

P.Pandian .. Respondent/Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, against the docket order, dated 23.09.2016 passed in I.A.No.157 of 2016 in un-numbered A.S in A.No.13259 of 2016 filed against the Judgment, dated 20.07.2016 passed in O.S.No.230 of 2005 by the Principal Sub Judge, Madurai.

C.R.P (MD) No.2622 of 2016

K.Pandian .. Petitioner/Petitioner/Appellant/
Defendant
Vs.

Kamalaveni @ Geetha .. Respondent/Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of Constitution of India, against the docket order, dated 23.09.2016 passed in I.A.No.158 of 2016 in un-numbered A.S in A.No.13258 of 2016 filed against the Judgment, dated 20.07.2016 passed in O.S.No.226 of 2005 by the Principal Sub Judge, Madurai.

For Petitioner : Mr.D.Malaichamy
in both CRPs

COMMON ORDER

The issue involved in both the CRPs are interlinked and hence, both CRPs are disposed of by common order.

2.These petitions have been filed by the petitioner against the docket order, dated 23.09.2016 passed in I.A.Nos.157 & 158 of 2016 in un-numbered A.S in A.Nos.13259 and 13258 of 2016 filed against the Judgment, dated 20.07.2016 passed in O.S.Nos.230 & 226 of 2005 by the Principal Sub Judge, Madurai.

3.The petitioner is the defendant in O.S.Nos.226 and 230 of 2005 on the file of the Principal District Court, Madurai. The



respondent in both the CRPs filed the above suits for ejectment in favour of them by directing the defendant to vacate and hand over the vacant possession of the suit property to the plaintiffs with furnitures, fittings etc., and directing the defendant to pay damages at the rate of Rs.15,000/- per mensem for his use and occupation of the scheduled property with furnitures, fittings etc., from the date of plaint till he vacates and hand over the vacant possession of the same in a good condition to the plaintiff. Both suits were decreed, after contest, by the judgment, dated 20.07.2016 directing the respondents to pay the difference of Court fee with regard to decree of mesne profit granted to them. The respondents have not paid the Court fee, therefore, the decree was not drafted. The petitioner filed two first appeals with copies of the judgment and filed I.A.Nos.157 & 158 of 2016 for leave to file the above appeals against the Judgment, dated 20.07.2016 in O.S.Nos.226 and 230 of 2005 on the file of the Principal Sub Court, Madurai for the time being till the decree in O.S.Nos.226 and 230 of 2005 is drafted by the trial Court.

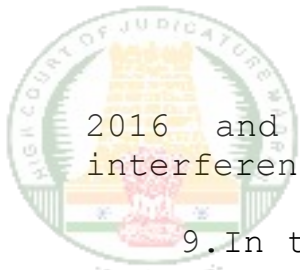
4.Considering the relief sought for by the petitioner i.e., to set aside the decree of ejectment as well as mesne profit, the learned Judge granted the relief to the petitioner to file an appeal with copy of the judgment alone, on condition that the petitioner pays the Court fee for the decreed mesne profits from the date of plaint till the date of passing of decree.

5.Against the said orders, the petitioner has come out with these present Civil Revision Petitions.

6.The learned counsel for the petitioner submitted that the learned Judge ought to have consider the contentions and undertaking of the petitioner that he would pay the Court fee with regard to mesne profit as and when decree is drafted. The learned Judge also did not consider the submission of the petitioner that he will restrict the appeal with regard to the decree of ejectment alone and prayed for allowing these Civil Revision Petitions.

7.I have heard the learned counsel appearing for the petitioner and also perused the entire materials on record.

8.From the materials on record, it is seen that the petitioner has filed the appeals not only against the portion of the decree of ejectment but also against the decree of mesne profits. In the circumstances, the learned Judge has rightly imposed the condition on the petitioner to pay the Court fee for the mesne profits as per the decree. The learned Judge has also took note of the fact that the petitioner has raised grounds on both decree of ejectment and mesne profits. Unless, the petitioner deletes or making endorsement giving up challenge with regard to mesne profits, the petitioner has to pay the Court fee with regard to decree of mesne profits also. The learned Judge has considered all the materials in proper perspective, passed an order in I.A.Nos.157 and 158 of



2016 and there is no illegality or irregularity warranting interference by this Court.

9. In the result, these Civil Revision Petitions are dismissed.
No costs.

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Sd/-
Assistant Registrar (CO)

/TRUE COPY/

Sub Assistant Registrar

To

The Principal Sub Judge,
Madurai.

+1 cc to Mr.D.Malaichamy, Advocate, SR.No:34

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AM

SVA/CM/MSA/07.02.2017/3P/3C

02.01.2017