

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28-02-2018

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

C.M.A.No.522 of 2018

Nataraja Reddiar

... Appellant

Vs

1.B.Srinivasan

2.Dhanalakshmi (Died)

Respondents 1 & 3 legal heirs of the deceased R2
as order dated 28.02.2018 and memo dated 26.02.2018 made in
MP.No.2/2011 in CMA.Sr.280/2011

3.Pachiammal

... Respondents

PRAYER : Civil Miscellaneous Appeal filed to set aside
the order dated 16.09.2010 in I.A.No.50/2001 in A.S.No.Nil on
the file of the District Judge, Thiruvannamalai.

For Appellant : Mr.G.Rajan
For Respondents : Mr.Abrar Md Abdulla
(for R1 and R3)

R2 Died

J U D G M E N T

The appeal has been preferred by the appellant against
the order passed by the trial Court, refusing permission to file
the appeal as pauper and exemption from the payment of Court
fee.

2.Heard the argument of the parties.

3.It is seen from the records that the respondents herein
filed a suit against the appellant in O.S.No.91/1988 before the
Additional Subordinate Judge, Tiruvannamalai and the suit was
decreed by judgment dated 15.03.2001. Against the said decree
and judgment of the trial Court, the appellant herein preferred
an appeal suit before the District Court, Tiruvannamalai. Since
the appellant did not have the funds to pay the court fee, he

took out an application in I.A. No. 50 of 2001 under Order 33 Rule 1 of CPC, seeking permission to file the appeal suit as a pauper and exemption from payment of court fee. The Appellate Court, based on evidence, factually found that the appellant owns 1.29 acres of property in Anwarabad Village, Chengam Taluk, and declined to grant permission, thereby dismissing the said I.A., by order dated 16.09.2010, which is under challenge in this appeal.

4. When the appellate court factually found that the appellant is in possession of 1.29 acres of property and rightly declined the permission sought, the order passed by the Appellate Court is sustainable and this appeal stands dismissed.

5. The appellant is granted two weeks time to pay the required court fee before the Lower Court from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS V)

//True copy//

Sub Assistant Registrar

sai

To

The District Judge,
Thiruvannamalai District court,
Thiruvannamalai.

+2cc to Mr.G.Rajan, Advocate SR.No.16646

सत्यमेव जयते

C.M.A.No.522 of 2018

GN(08/03/2018)

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