

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.06.2018

Coram:

THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

C.R.P.(PD)No.1758 of 2018 and
C.M.P.No.9789 of 2018

S.Balachandran

... Petitioner

Vs.

S.Ganesan
rep. By his power of attorney
Mrs.R.K.K.Veenakumari

... Respondent

Civil Revision Petition has been filed under Article 227 of the Constitution of India against the fair and decreetal order dated 15.02.2013 in I.A.No.617 of 2011 in O.S.No.855 of 2010 on the file of the learned III Additional Subordinate Judge, Coimbatore.

For Petitioner : Mr.R.Siddharth for
Ms.P.Veena Suresh

ORDER

This civil revision petition has been filed against the order dated 15.02.2013 passed in I.A.No.617 of 2011 in O.S.No.855 of 2010 by the learned III Additional Subordinate Judge, Coimbatore.

2 The respondent herein filed a suit in O.S.No.855 of 2010 before the learned III Additional Subordinate Judge, Coimbatore, for rendition of accounts for the income received by the petitioner/defendant from the respondent/plaintiff's property. The petitioner/defendant filed an interlocutory application in I.A.No.617 of 2011 under Section 16 and 151 of CPC requesting the Court to take up the issue whether the Trial Court has no jurisdiction to try the suit as a preliminary issue and enquire the same. The respondent/plaintiff filed his counter in the said application and the trial Court after considering the arguments advanced on either side dismissed the application by an order dated 15.02.2013.

3 Aggrieved against the above said order dated 15.02.2013, the defendant has now come forward with the present civil revision petition.

4 The learned counsel appearing for the petitioner/defendant would submit that the suit is not maintainable on the ground that the trial Court has no jurisdiction to try this suit. The respondent/plaintiff filed a suit for rendition of account for the income from his property,

which is admittedly situated at Tirunelveli. Hence under Section 16 of CPC the suit can lie only within the jurisdiction of Tirunelveli. Further the above stand has also taken in the written statement itself filed by the petitioner herein. The trial Court has failed to consider the above facts and dismissed the application by an order dated 15.02.2013. Hence the revision petitioner prays to allow the civil revision petition by setting aside the order dated 15.02.2013.

5 Heard the learned counsel appearing for the revision petitioner and perused the materials available on record.

6 The main contention of the revision petitioner is that the respondent filed a suit for rendition of accounts for the income received from his property which is admittedly situated at Tirunelveli and hence as per Section 16 of CPC the suit can lie only within the jurisdiction of Tirunelveli and the trial Court has no jurisdiction to try this suit.

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7 The suit is only for rendition of accounts and not for anything else. Admittedly the revision petitioner is the permanent resident of Coimbatore and as per proviso to Section 16 of CPC, the

Court at Coimbatore has got jurisdiction in the subject matter of the suit.

8 Under these circumstances, this Court does not find any illegality or infirmity in the order dated 15.02.2018 passed by the trial Court. Further neither of the parties have mentioned the schedule of properties, even the power of attorney said to have been executed in favour of the defendant has not been produced before this Court to show the description of the property.

9 In view of the above reasons, the civil revision petition is dismissed. Consequently connected miscellaneous petition is closed. No costs.

12.06.2018

Index: Yes/No

Internet: Yes/No

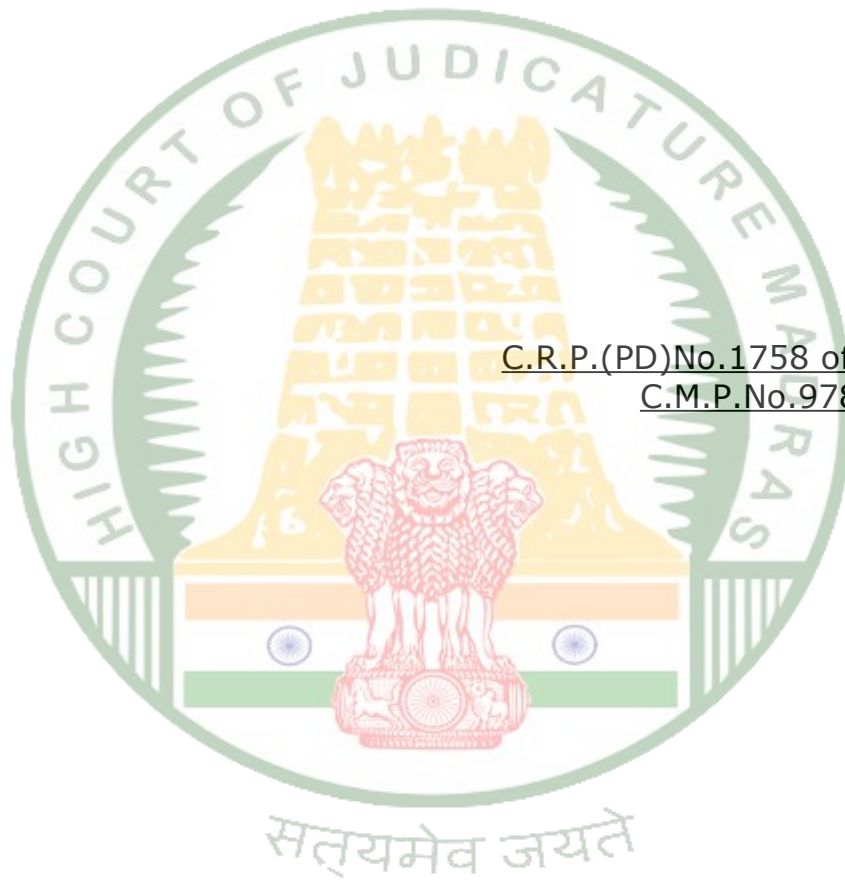
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To

The III Additional Subordinate Judge,
Coimbatore.

P.VELMURUGAN, J.,

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