

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2018

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.737 of 2014
& M.P.No.1 of 2014

H.Madhiha

.. Petitioner

Vs.

N.Umar Farook

.. Respondent

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the fair and decretal order dated 13.11.2013 made in I.A.No.500 of 2013 in O.S.No.648 of 2011 on the file of the II Additional District Court, Erode.

For Petitioner : M/s.P.T.Ramadevi

For Respondent : Mr.J.Titus Enock
for Mr.I.C.Vasudevan

ORDER

This Civil Revision Petition is filed against the fair and decretal order dated 13.11.2013 made in I.A.No.500 of 2013 in O.S.No.648 of 2011 on the file of the II Additional District Court, Erode.

2.The petitioner is defendant and respondent is the plaintiff in O.S.No.648 of 2011 on the file of the II Additional District Court, Erode. The respondent filed the said suit for mandatory injunction directing the petitioner to return the plaint schedule mentioned properties. The petitioner filed written statement and is contesting the suit. When the Court framed the issues, it was found that the respondent is seeking return of the movable properties and respondent has to value the suit property as per Section 24 of Tamil Nadu Court Fees and Suit Valuation Act (herein after referred to as 'the Act') and Court fee should be paid on the value of the movables not under Section 27(C) of the Act and therefore issued check slip directing the respondent to value the suit property under Section 24 of the Act and pay Court fee on or before 30.09.2013.

3.The respondent on receipt of check slip, filed I.A.No.500 of 2013 under Order VI rule 17 and Section 151 of C.P.C for permission to amend the plaint with regard to valuation of the suit property at Rs.4,20,720/- and to pay the Court fee of Rs.31,554/- under Section 24 of the Act.

4.The petitioner filed counter affidavit and submitted that the respondent is introducing a new cause of action and new case and prayed for dismissal of the application.

5.The learned Judge considering the averments in the affidavit, counter affidavit and the check slip issued by the Court, allowed the application.

6.Against the said order dated 13.11.2013 made in I.A.No.500 of 2013 in O.S.No.648 of 2011, the petitioner has come out with the present Civil Revision Petition.

7.Heard the learned counsel for the petitioner as well as the respondent and perused the materials available on record.

8.The learned counsel for the petitioner submitted that now the respondent has valued the suit at Rs.4,20,720/- which exceeds pecuniary jurisdiction of District Court and the learned Judge erred in entertaining the application for amendment. The learned Judge ought to have returned the plaint to be presented before the competent Court having pecuniary jurisdiction. The said contention

is without merits. From the materials available on record, it is seen that at the time of framing issues, the Court found that the respondent has not properly valued the suit property and has not paid correct Court fee. According to the learned Judge Court fee payable is on value of the movables and Court fee payable is as per Section 24 of the Act and issued check slip dated 07.08.2013 to that effect. In view of the same, the petition filed by the respondent for amendment of I.A.No.500 of 2013 with regard to valuation is maintainable in the Court of District Munsif. Once amendment is ordered and Court fee is paid and if it is found that Court has no pecuniary jurisdiction, Court has to return the plaint for presenting before the proper Court.

9.In view of the same, the Civil Revision Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

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Index :: Yes/No
gsa

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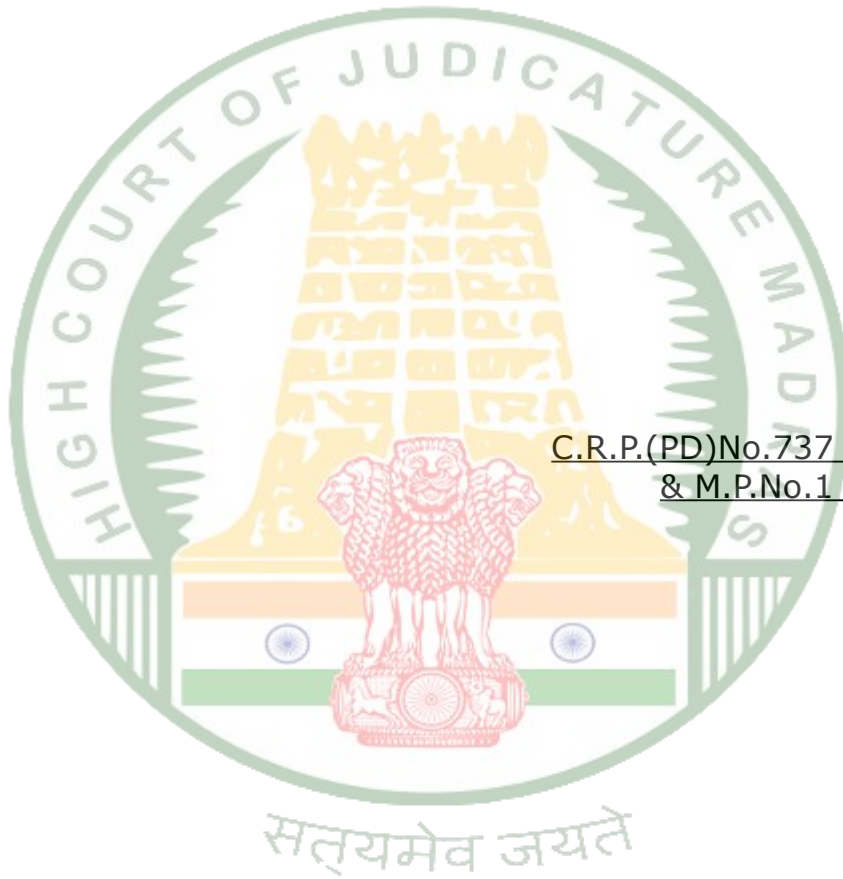
The II Additional District Judge,
Erode.



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V.M.VELUMANI,J.

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