



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Orders Reserved on : 09.08.2018

Orders Pronounced on : 11.08.2018

CORAM:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

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C.R.P (MD) No.50 of 2011 (PD)

M. Alagesan

...Petitioner/Petitioner/Defendant

Vs.

J. Esakkimuthu

... Respondent/Respondent/
Plaintiff

PRAYER: Civil Revision Petition is filed, under Article 227 of the Constitution of India, to set aside the order dated 28.09.2010 passed in I.A.No.145 of 2009 in O.S.No.35 of 2009 on the file of the Additional District Munsif, Tuticorin.

For Petitioner : Mr.S.Subbiah
Senior Counsel
for
Mr.G.Aravindhan

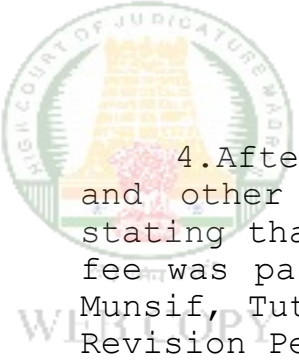
For Respondent : Mr.G.Prabhu Rajadurai

ORDER

The order dated 28.09.2010 passed in Interlocutory Application No.145 of 2009 in Original Suit No.35 of 2009 by the learned Additional District Munsif, Tuticorin is being challenged in the present Civil Revision Petition.

2.The respondent was the plaintiff and the Petitioner was the defendant in the suit. The respondent filed suit in O.S.No.35 of 2009 against the respondent before the Additional District Munsif, Tuticorin, for the relief of permanent injunction. In the meantime, the petitioner herein filed an interlocutory application in I.A.No.145 of 2009 in O.S.No.35 of 2009 before the Additional District Munsif, Tuticorin, to decide the issue with regard to payment of deficit court fee. The petitioner states that the suit prayer is much more than Rs.1,000/- as valued in the suit and therefore, he has filed an application for a direction, to the respondent to pay the deficit court fee.

3.Per contra, the respondent filed his counter affidavit stating that there is no question of payment of deficit court fee, as the suit prayer for permanent injunction has been valued as Rs.1,000/- and the appropriate court fee of Rs.75.50 was paid and therefore, the application is liable to be dismissed.



4. After hearing both the parties and perused all the pleadings and other documents, the lower Court dismissed the application stating that the suit prayer was valued properly and necessary court fee was paid. Aggrieved by the said order of the learned District Munsif, Tuticorin, the petitioner herein preferred the present Civil Revision Petition.

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

6. When the matter came up for hearing, the learned counsel appearing on both sides submitted that in view of the order passed in C.R.P.(MD) Nos. 48 and 49 of 2011 to the effect that the Court below can decide the pecuniary jurisdiction of the Court and the payment of court fee as preliminary issues, question of payment of deficit court fee, at this stage, does not arise and therefore, this Civil Revision Petition can be closed, as nothing survives.

7. Recording the said submission made by the learned counsel appearing on both sides, this Civil Revision Petition is closed, as nothing survives for further adjudication. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar(CS-I)

To

The Additional District Munsif,
Tuticorin.

+1CC to Mr.G.Prabhu Rajadurai, Advocate, SR.No.78362

C.R.P(MD) No.50 of 2011 (PD)
11.08.2018

RJ2

ES/SKN/RSK/SAR 1/14.09.2018/2P/3C