

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.09.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.VELMURUGAN

Rev.A.No.192 of 2019 in
C.R.P(PD).No1758 of 2018

S.Balachandran

... Petitioner

Vs.

S.Ganesan

rep. by his Power of Attorney,
Mrs.R.K.K.Veenakumari

...Respondent

Application filed under Order 47 Rule 1 read with Section 114 of the Code of Civil Procedure, to review the order dated 12.06.2018 in C.R.P.(PD).No.1758 of 2018.

Prayer in CRP.Civil Revision Petition under Article 227 of the Constitution of India, and against the Fair and Decreetal order dated 15/02/2013 in ITA. 06/07/2011 in O.S.No. 855 of 2019 on the file of the III Additional District Court, Coimbatore.

For Petitioner : Mrs.P.Veena Suresh

For Respondent : Mr.S.K.R.Arun Shabari

ORDER

The review application has been filed seeking to review the order dated 12.06.2018 in C.R.P.(PD).No.1758 of 2018.

2 This Court after hearing the petitioner, by order dated 12.06.2018, dismissed the civil revision petition filed by the petitioner herein and confirmed the order of the trial Court dated 15.02.2013, which was impugned in the civil revision petition and now the petitioner is before this Court with the present application seeking to review the same.

3 The learned counsel appearing for the petitioner would submit that the suit filed by the respondent in O.S.No.855 of 2010 before the learned III Additional Subordinate Judge, Coimbatore, seeking rendition of account is not maintainable on the ground that the trial Court has no jurisdiction to try the

suit. The respondent/plaintiff filed a suit for rendition of account for the income derived from his property, which is admittedly situated at Tirunelveli. Hence under Section 16 of CPC the suit can only lie within the jurisdiction of Tirunelveli. In support of her contention, the learned counsel has relied on the decision rendered by this Court reported in MANU/TN/0271/1939 (Koka Audinarayana Rao Naidu vs. Bhavaraju Lakshminarayana Rao). Further, the respondent/plaintiff has now filed a petition to amend the plaint, which was also allowed. Therefore, the order dated 12.06.2018, passed in C.R.P.(PD). No.1758 of 2018 has to be reviewed.

4 The learned counsel appearing for the respondent would submit that the petitioner was power of attorney and the respondent is principal of the properties and respondent had filed the present suit only for rendition of account for the income derived from his properties. Admittedly the petitioner/defendant is a permanent resident of Coimbatore and hence the respondent/plaintiff filed the suit at Coimbatore. Since, the suit is not for any injunction or declaration of title, it is only for rendition of account and hence Section 16 of CPC would not at all apply for present case and Section 20 of CPC would only apply. The learned counsel would further submit that the amended copy of plaint has not been served and no review would lie based on the subsequent development in the case. This Court has rightly dismissed the civil revision petition, which need not be reviewed.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 It is the contention of the learned counsel for the petitioner that the Court, where the respondent has filed the present suit has no jurisdiction to try the suit, since the immovable properties situated only at Tirunelveli. The learned counsel for the respondent opposed the said contention stating that the petitioner/defendant is permanent resident of Coimbatore and hence at any angle Section 16 of CPC would not apply rather Section 20 would apply and therefore, the suit filed by the respondent at Coimbatore is not affected by the question of jurisdiction. This Court, on a careful perusal of the orders impugned in the civil revision petition and the order dated 12.06.2018 passed by this Court, is of the view that since the respondent has filed the suit only for rendition of account and not for anything else and also the petitioner/defendant is resident of Coimbatore, the suit would very well lie before the learned II Additional Subordinate Judge, Coimbatore. Further, question of review would only arise, when error apparent on the face of the order, but in this case, this Court has clearly stated in the order dated 12.06.2018, which is sought to be

reviewed in the present application, that Section 16 would not arise and the trial Court has got jurisdiction to try the suit, since it is filed only seeking rendition of account and also the petitioner/defendant is a resident of Coimbatore.

7 Therefore, the review application stands dismissed as being devoid of merit and substance. No costs.

Sd/-

Assistant Registrar (Insp Cell)

//True Copy//

Sub Assistant Registrar

Cgi

To

The III Additional Subordinate Judge, Coimbatore.

+1cc to Mr.K.R.Arun Shabari, Advocate, S.R.No. 77818

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RR(CO)

GN(05/11/2019)