

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.10.2019

CORAM :

The HON'BLE MR.JUSTICE M.DURAIWAMY

C.R.P.No.1554 of 2013
and M.P.No.1 of 2013

Kotagiri Rob Roy Tea Estates Limited
Mellur House, Wood Cock Road,
Ootacamund
rep by its Director ... Petitioner/1st Defendant

Vs.

- 1.M/s.Spencer and Company Ltd.,
rep by its Vice President K.N.Mahesh Kumar
having its Registered Office at
4th Floor, Spencer Plaza,
769, Anna Salai, Chennai.
- 2.Saradha Gundan
- 3.Shamila Gopal
- 4.Nalini Thilak
- 5.Aravenu Kannavarai Tea Estate Industry
rep by its Managing Partner B.Lingam
2/399 A, Aravenu Post, Kotagiri, The Nilgiris.
- 6.M/s.Limtex India Ltd., Co.,
No.2, Lalbazaar Street, Kolkata.
- 7.M.B.Devaraj
- 8.Chitra Devaraj
- 9.Prema Lakshmanan
- 10.Saroja
- 11.Sunitha
- 12.Preetha
- 13.B.Suresh
- 14.Kalichandran
- 15.Chandran
- 16.Sathiamoorthy
- 17.Canara Bank,
Aravenu Branch, The Nilgiris,
through its Branch Manager.
- 18.Ravi
- 19.Suresh Babu
- 20.B.L.Anandan
- 21.Pollachi Sri Krishna Tea Estate,
rep by its Partner Kuppuraj
Mahalingapuram, Pollachi.
- 22.T.B.Babu
- 23.K.Ramachandran
- 24.Ravi Kumar
- 25.Ramesh

26.B.Mani
27.Jogaraj
28.Ganesan
29.Jogi Gowder
30.Muthulakshmi
31.J.Rajan
32.J.Chandran
33.Serma Durai
34.S.Murugesan
35.Veldurai
36.Sudha Govindarajulu
37.Veerawamy
38.Hari Subramaniam
39.Preethima
40.K.Ravichandran
41.Dr.V.Balasubramanian
42.Dorathy Rufus Padmanaban
43.K.S.Krishnaveni
44.M/s.Riverside Dream Capes Pvt. Ltd.,
rep by Nithin Lakshmanan
Selma House, Aravenu, Kotagiri.
... Respondents/Plaintiff & Defendants 2 to 44
(R2 to R44 not necessary parties)

Petition filed under Article 227 of the Constitution of India against the order dated 01.03.2013 made in I.A.No.301 of 2009 in O.S.No.72 of 2008 on the file of the District Munsif, Kotagiri.

For Petitioner : Mr.A.Arfaat Mohammed
for M/s.A.K.Mylsamy & Associates

For Respondents : Mr.S.Elambharathi (R1)
R2 to R44 - given up

O R D E R

Challenging the order passed in I.A.No.301 of 2009 in O.S.No.72 of 2008 on the file of the District Munsif Court, Kotagiri, the 1st defendant has filed the above Civil Revision Petition.

2.The 1st respondent/plaintiff filed the suit in O.S.No.72 of 2008 for recovery of possession and for permanent injunction. The petitioner/1st defendant filed their written statement and are contesting the suit. In the written statement, the 1st defendant has taken a specific plea stating that the court fees paid by the plaintiff is not proper. Subsequently, when the suit was ripe for trial, the defendants filed an application in I.A.No.301 of 2009 to relegate an enquiry to determine the valuation of the suit property and the court fees paid thereon. The trial Court, by order dated 01.03.2013, closed the application stating that the suit was ripe for trial. The trial Court has not passed any order on

3.As already stated, the defendants have taken a specific plea with regard to payment of court fees by the plaintiff. According to the defendants, the plaintiff has not valued the property properly. When there is a specific averment in the written statement, the trial Court should have framed an issue with regard to the correctness of payment of court fees by the plaintiff. If the trial Court has not framed an issue with regard to the same, I direct the District Munsif Court, Kotagiri to frame an issue with regard to the correctness of the value and the court fees paid by the plaintiff and decide the suit in accordance with law.

4.For the reasons stated above, the Civil Revision Petition is disposed of by giving a direction to the District Munsif, Kotagiri to dispose of the suit in O.S.No.72 of 2008 on merits and in accordance with law, including the issue involved in I.A.No.301 of 2009. Since the suit is pending from the year 2008, I direct the District Munsif, Kotagiri to dispose of the suit within a period of four months from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True copy//

Sub Assistant Registrar

va

To

1.The District Munsif, Kotagiri

2. The Section Officer,
VR Section, High Court, Madras

+1cc to Mr.S.Elambharathi, Advocate SR.No.81291

C.R.P.No.1554 of 2013
and M.P.No.1 of 2013

KK(CO)
GMY(14/11/2019)
nr 12/12/2019