



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

Rev.Aplc(MD)No.167 of 2017

in AS(MD).211 of 2010

1.R.M.Vijayalakshmi

2.R.M.Somasundaram

3.N.Alamelu

4.P.L.Nachammai

5.R.M.Sivakami

... Review Petitioners/
Respondents 1 to 5/Plaintiffs

Vs.

1.Vijayalakshmi (died)

2.B.Sankaranarayanan

... Respondents 1 & 2/
Appellants 1 & 2/Defendants 2 & 3

3.O.C.Ravichandran

... 3rd Respondent/
6th Respondent/1st Defendant

Prayer:- Review Application filed under Order XLVII, Rule 1 and 2 r/w 114 of the Code of Civil Procedure, 1908 against the order dated 10.01.2014 passed in A.S(MD)No.211 of 2010 on the file of this Court.

Prayer in AS(MD)No.211 of 2010:-

Appeal Suit is filed under Section 96 of CPC against the judgment and decree dated 30.07.2010 and in OS.No.9/2008 on the file of Additional District Judge/Fast Track Court, Dindigul.

For Petitioners : Mr.M.S.Balasubramania Iyer

For R - 1 : Died

For R - 2 : Mr.M.P.Senthil

For R - 3 : Mr.S.Sarvagan Prabhu



ORDER

(Order of the Court was made by PUSHPA SATHYANARAYANA, J.)

The review petitioners/plaintiffs had filed the above Review Application to review the interim order passed in A.S(MD)No.211 of 2010.

2.The review petitioners/plaintiffs filed a suit in O.S.No.9 of 2008 on the file of the Additional District Court, Fast Track Court, Dindigul, for specific performance. The review petitioners/plaintiffs had agreed to purchase the property along with business, as per sale agreement-Ex.A.2. The sale consideration agreed was Rs.75,01,000/-, whereas, the deficit Court fee paid was Rs.750/-. Unfortunately, there was no issue framed on the deficit Court fee payable and the suit was decreed. Aggrieved by the same, the defendants 2 and 3 had preferred A.S (MD)No.211 of 2010 on the file of this Court and had taken the preliminary objection of payment of deficit Court fee by the review petitioners/plaintiffs in the suit.

3.A direction was given by this Court on 13.12.2013 in A.S(MD) No.211 of 2010 to obtain a report, as per which, it has been computed that the deficit Court fee payable under Section 42(a) of the Tamil Nadu Court Fees and Suits Valuation Act, 24 of 1955 is a sum of Rs.5,61,824/-, after deducting the deficit Court fee of Rs.750/- which was paid already.

4.Based on the report, a direction was given by this Court on 10.01.2014, directing the review petitioners/plaintiffs to pay the deficit Court fee as indicated above. Aggrieved by the said order, the present Rev.Aplc(MD)No.167 of 2017 is filed.

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

6.When the deficit Court fee payable is under Section 42(a) of the Tamil Nadu Court Fees and Suits Valuation Act, 24 of 1955 and the review petitioners/plaintiffs was put on possession as part performance of the contract, they ought to have paid the entire deficit Court fee and they cannot take shelter under Section 42(e) of the Tamil Nadu Court Fees and Suits Valuation Act, 24 of 1955, which is not applicable to the case on hand. Therefore, there is no error apparent on the record in the order passed on 10.01.2014 and the Review Application is liable to be dismissed.

7.The plaintiffs, who are the review petitioners herein, are directed to pay the deficit Court fee of Rs.5,61,824/- within a period of four weeks from the date of receipt of a copy of this



order, to the credit of O.S.No.9 of 2008 on the file of the Additional District Court, Fast Track Court, Dindigul.

8.Once the deficit Court fee is paid in the suit, the respondents/defendants also have to pay the same deficit Court fee, as that was paid before the trial Court, within a period of four weeks from the date on which the plaintiffs paid the deficit Court fee before the trial Court.

9.With the above directions, the Review Application stands dismissed. No costs.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

+1 CC to M/s.M.P.SENTHIL, Advocate (SR-7705[F] dated 01/03/2021)

Rev.Aplc(MD)No.167 of 2017
26.02.2021

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