

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN

C.R.P.No.3492 of 2018

D.Thangamuthu

.. Petitioner

Vs.

1.N.Senthilkumar

2.The Assistant Director,
Handloom and Textiles,
No.426, Bavani Main Road,
Asokapuram,
Veerapanchathiram Post,
Erode - 638 004.

...Respondents

PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order passed on maintainability by the District Munsif cum Judicial Magistrate, Perundurai dated 25.09.2018 in the unnumbered O.S. Of 2018 and subsequently direct them to number the suit filed by the petitioner and dispose of the same on merits in accordance with law by allowing this Civil Revision Petition.

For Petitioner : Mr.R.Arun Dattan

For Respondents : No appearance

O R D E R

This matter is taken up for hearing through Video-Conferencing.

2. This Revision is directed against the order rejecting the plaint on the ground that it is barred under Section 156 of the Co-Operative Societies Act. The rejection is therefore under Order VII Rule 11(d). In view of the definition of a 'decree' in Section 2(2) of the Code of Civil Procedure, an order rejecting the plaint under Order VII Rule 11(d) is deemed to be a decree and it is appealable under Section 96 of the Code of Civil Procedure. Hence, the revision is dismissed as not maintainable.

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3. However, taking into account the fact that the petitioner has filed this Revision within the time allowed for an appeal under Section 96 of the Code of Civil Procedure. The Registry is directed to return the certified copy of the impugned judgment and decree to the petitioner to enable him to file an appeal before the jurisdictional sub-court. The petitioner is granted time till 31.01.2021 to prefer an appeal.

4. If the appeal is preferred before 31.01.2021, the learned Subordinate Judge is directed to number the appeal without insisting on a petition for condonation of delay. This Civil Revision Petition is disposed of with the above observations. No costs.

5. The Registry shall return the certified copy of the impugned judgment and decree to the learned counsel for the petitioner forthwith.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa

To

1.The learned District Munsif
cum Judicial Magistrate, Perundurai.

2.The Section Officer,
VR(Records),
High Court, Madras.

+1cc to M/s.R.Arundattan, Advocate SR.42144

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