

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

C.M.A.No.2685 of 2011

and

M.P.No.1 of 2011

Mannangatti

.. petitioner

Vs.

1. Union of India,
Rep. by the Lieutenant Governor,
Union Territory of Pondicherry.
 2. The Government of Pondicherry,
Rep. by its Chief Secretary,
Pondicherry.
 3. The Estate Officer Cum Executive Engineer,
Public Works Department,
Pondicherry.
- .. Respondents

PRAYER : Civil Miscellaneous Appeal is filed under Order 43 Rule 1(na) of C.P.C, praying to set aside the order dated 12.07.2011 made in O.P.No.20 of 2006 and permit the appellant to sue the respondents as an indigent person.

For Appellant : M/s.S.Vijayalakshmi

For Respondents : Mr.Stalin Abhimanyu
Additional Government Pleader
Pondicherry

JUDGMENT

The appellant herein is the petitioner in O.P.No.20 of 2006, on the file of the Second Additional District Judge, Pondicherry, filed by him to sue the respondents as indigent

persons, to claim damages of Rs.5,50,000/- from the respondents. He pleaded that he is not a person of means and not able to pay the Court fee and seek permission to sue, but the trial Court rejected the claim by dismissing the application. Aggrieved by that he preferred this appeal.

2. Point for consideration:

Whether the trial Court committed error in holding that this appellant is having sufficient means to pay the Court fee by erroneously taking into consideration that his wife is having immovable properties and having suitable income in their family?

3. The respondent also contested the appeal.

4. Facts reveal that as the appellant filed a suit for damages against the respondents and also filed a petition in O.P.No.20 of 2006 to declare him as a indigent person and to exempt from him paying the Court fee. These respondents contested the said petition.

5. Though the appellant denied that he is a person of no means, but before the trial Court, while he was examined as PW.1, he admits that he is living along with his wife and the wife of the petitioner is having an immovable property of land measuring an extent of 0.43.00 hectares of land purchased on 09.07.1998 through the sale deed for valid consideration of Rs.4,30,000/-. So, the appellant himself admits that the wife is having the immovable property, which is worth about Rs.5,00,000/- in the year 1998. But, he contended that the suit was filed by him and the trial Court erroneously concluded that his wife is having the property and sufficient means. But as per his own evidence, he admits that the petitioner and his wife are living together and both are enjoying the properties. It is not a case of the appellant that he and his wife are living separately. Apart from that the respondent also established that his wife is running a brick kiln and earning Rs.48,000/- per annum.

6. To disprove the fact, there is no evidence on the side of the appellant. So, from the evidence of PW.1, it is clearly proved that he is having sufficient income as well as immovable property and the trial Court has rightly appreciated all these facts and dismissed the claim of the appellant and held that he is a person of means. He has sufficient means to pay the Court fee, therefore, the Civil Miscellaneous Appeal is not maintainable in law and the order of trial Judge is confirmed. Thus the question of law is answered.

7. Accordingly, the Civil Miscellaneous Appeal is dismissed. Appellant is directed to pay the Court fee within a period of three months. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

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Sub Assistant Registrar

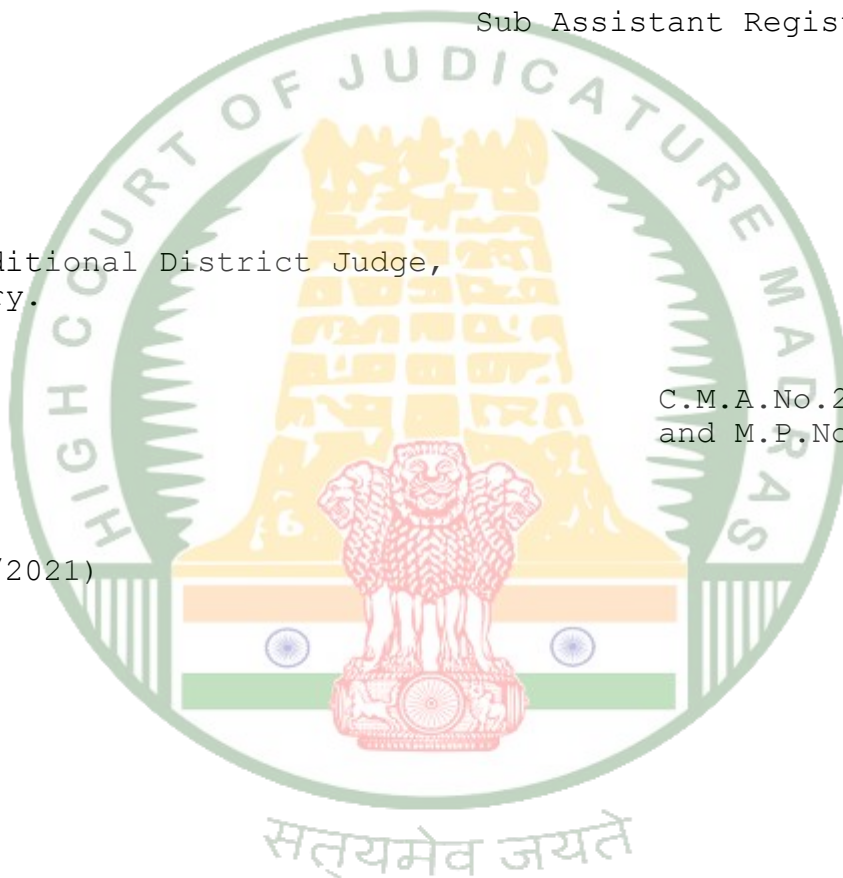
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To

The II Additional District Judge,
Pondicherry.

C.M.A.No.2685 of 2011
and M.P.No.1 of 2011

SMI (CO)
TE (28/04/2021)



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