

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2021

CORAM

THE HON'BLE Ms. JUSTICE R.N.MANJULA

C.R.P.(NPD).No.2711 of 2015

Ponnusamy

rep. By Power of Attorney Agent,

M.Subramaniam

... Petitioner

Vs.

1.Thayammal

2.The District Collector,
Tiruppur.

3.The Tahsildar,
Palladam.

... Respondents

PRAYER : The Civil Revision Petition filed under Article 227 of the Constitution of India against the Fair and Decretal orders of the learned District Munsif of Palladam, dated 23.06.2015 in I.A.No.155 of 2012 in O.S.No.234 of 2009.

For Petitioner : Mr.G.Vigneshwar for

M/S.V.Nicholas

For Respondents : Mr.K.Goviganesan for R1

: Dr.S.Suriya,

Government Advocate(Civil side)

for RR2 and R3

ORDER

(Heard through video conferencing)

This Civil Revision Petition has been filed against the order of dismissal passed in I.A.No.155 of 2012 in O.S.No.234 of 2009, dated 23.06.2015.

2. The petitioner has filed a petition for Interlocutory Application in I.A.No.155/2012, to review the order of the rejection of the plaint made on 07.01.2011. The learned Trial Judge has rejected the plaint for the reason that there was a deficit of Court fee and that was not paid by the plaintiff. But the petitioner who is the petitioner has alleged that he has paid an Additional Court fees of Rs.75.50 on 24.09.2010 itself and hence there is no deficit. The Court without noticing the same has wrongly presumed that the plaintiff has not complied the order to pay the Additional Court fees and rejected the plaint.

3. The learned counsel for the respondents also did not object the contentions of the petitioner/plaintiff that he has paid the Additional Court fees of Rs.75.50 on 24.09.2010.

4. The submissions made by the learned counsels heard and the records also perused.

5. Though the order of the learned trial judge was due to a clerical omission of noticing the payment of the additional Court fee, the petitioner has filed a petition to review the same by quoting a wrong provision under Order 9 Rule 6. The respondent contended that the petition ought to have been filed

under Section 114 of Civil Procedure Code and not under Order 9 Rule 4.

6. The learned trial Judge has also made an observation of the said fact that while dismissing the petition. On perusal of the allegations made in the petition and also the prayer, it is seen that the petitioner intended that the order should be reviewed only. Just because a wrong provision is quoted, the petitioner/plaintiff should not be deprived of any remedy on that score. Since the petitioner/plaintiff has paid the additional Court Fee, the trial Court ought to have taken it on file, if it was otherwise in order.

7. Taking into consideration of all these factual aspects and in the interest, I am inclined to allow the present Civil Revision Petition.

In the result, this **Civil Revision Petition is allowed** and the order of dismissal of the learned District Munsif, Palladam, dated 23.06.2015 in I.A.No.155 of 2012 in O.S.No.234 of 2009 is hereby set-aside. No costs.

सत्यमेव जयते

14.06.2021

Speaking/Non-speaking

Index : Yes/No

Internet : Yes/No

jrs

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R.N.MANJULA,J.

jrs

To

1. The District Munsif,
Palladam.
- 2.The District Collector,
Tiruppur.
- 3.The Tahsildar,
Palladam.
- 4.The Section Officer,
V.R.Section,
High Court, Madras.



C.R.P.(NPD).No.2711/2015

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