

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.08.2021

CORAM

THE HONOURABLE MR.JUSTICE K.KALYANASUNDARAM

CRP (PD).No.2408 of 2018
and CMP.No.14856 of 2018

1. Subramaniam
2. Natarajan

...Petitioners

Vs

1. Vidya @ Palaniammal @ Vidhya Selvam
2. Vadivelu
3. Sampoornam

..Respondents

Prayer:- Civil Revision Petition has been filed under Article 227 of the Constitution of India, to set aside the fair and final order dated 27.04.2018 passed in I.A.No.169 of 2018 in O.S.No.149 of 2017 on the file of the I Additional District Judge, Erode

For Petitioner : Mr.I.C.Vasudevan

For Respondents
for R1 : Ms.Deepika Murali
for RR2 & 3 : Notice not ready

ORDER

CRP.No.2408 of 2018 is directed against the fair and final order dated 27.04.2018, passed in I.A.No.169 of 2018 in O.S.No.149 of 2017 by the I Additional District Judge, Erode.

2. The petitioners are the defendants 1 and 2 in O.S.No.149 of 2017 and the first respondent herein instituted the suit for declaration and for recovery of possession and for consequential injunction. Though the suit was originally filed before the Sub Court, Erode on 28.01.2008, while deciding the preliminary issue, the learned Sub Judge returned the plaint for proper presentation. It appears that thereafter, the plaint was presented before the District Court, Erode on 05.09.2017 by paying Court fee under the Tamil Nadu Court Fee amended Act of 6 of 2017. The present petition was filed contending that the suit has not been properly valued and Court fee paid is not sufficient.

3. It is the case of the petitioners that under the old Court Fee Act, the plaintiff was liable to pay Court fee at the rate of 7.5%, but Court fee was paid only at 3%. The learned Judge dismissed the application. Challenging the same, the present revision has been filed.

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4. Heard, Mr.I.C.Vasudevan, learned counsel for the petitioners and Ms.Deepika Murali, learned counsel appearing for the first respondent and perused the materials available on record.

5. In the case on hand, indisputably the suit was originally filed before the Sub Court for declaration and permanent injunction and the plaint was returned for want of jurisdiction. The first respondent/plaintiff presented the suit before the District Court on 05.09.2017. Though the suit was originally filed on 28.01.2008, the first respondent/plaintiff paid Court fee as per the Tamil Nadu Court Fee Amended Act at the rate of 3% treating the suit as fresh one. Admittedly, the new Act came into force on 01.03.2017.

6. In this regard it is useful to refer the judgment of this Court in CRP.(MD).No.2421 of 2018, dated 20.02.2019. The relevant portion of the judgment is extracted hereunder:

"13. The arguments advanced by the petitioners that when the said suit was returned on the point of jurisdiction and when the amendment petition was also filed along with the suit plaint, it has to be taken as suit for continues cause of auction and the Court fee has to be paid as on the date of filing of the suit, was very much rejected by the Trial Court.

14. On perusal of the proceedings regarding the amendment and also valuation fixed by the Amin, the suit was filed by the respondents/plaintiffs before the

concerned Court amounts to a fresh suit and the Court fee is also paid according to the date of filing of the suit. Hence, the trial Court has considered the relevant points that whether the suit is a fresh one or continuous process and after returning the same, it has been considered properly. In view of the above, this Court does not find any reason to interfere with the order passed by the Trial Court."

7. Considering the facts and circumstances of this case and also the view taken in the order above referred, I find no merit in the Civil Revision Petition. Accordingly, the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

18.08.2021

Index : Yes/No
Internet : Yes/No
Speaking Order : Yes/No
pvs

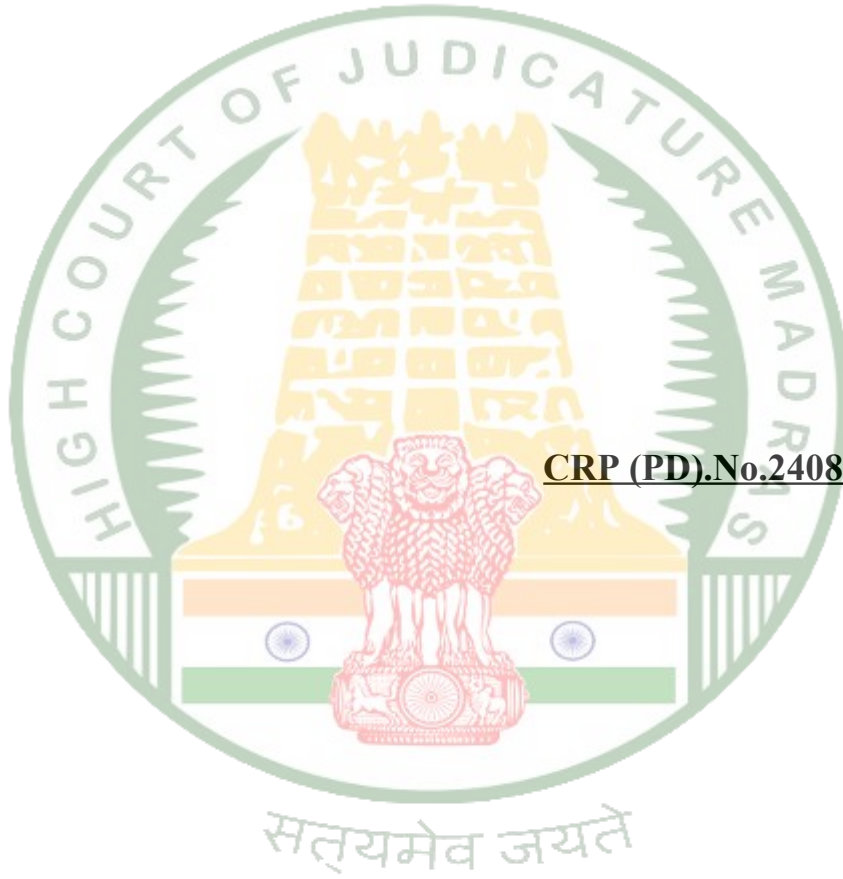
To

1. The I Additional District Judge,
Erode
2. The Section Officer,
V.R.Section, High Court, Madras.

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K.KALYANASUNDARAM, J

pvs



CRP (PD).No.2408 of 2018

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18.08.2021