

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2021

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

C.R.P.(PD)No.4778 of 2014
and M.P.No.1 of 2014

Damodaran

.. Petitioner

Vs.

- 1.Pallandon Lakshmi Gandhi
- 2.Selvaraju
- 3.Soundararajan
- 4.Pallandon Veerappan (died)
- 5.Vijayabalani
- 6.Gunabushani

.. Respondents

*(RR1 and 6 are legal heirs of the deceased R4,
as per the memo dated 18.11.2019 (SR.No.34806
of 2019)and vide Court order dated 27.08.2021
made in C.R.P.No.4778 of 2014)*

Prayer: Civil Revision Petition filed under Article 227 of the Constitution of India, to set aside the order dated 09.07.2014 in returning the plaint in unnumbered O.S. SR.No.15216 of 2013 on the file of the Principal District Court, Pondicherry.

For Petitioner : Mr.S.Sudharshan
for M/s.S.Subramanian

For Respondents : Mr.P.Veeraraghavan (For R1 & R6)

No appearance (For R2, R3 & R5)

ORDER

(The matter is heard through 'video conferencing/hybrid mode')

This Civil Revision Petition is filed to set aside the order dated 09.07.2014 in returning the plaint in unnumbered O.S. SR.No.15216 of 2013 on the file of the Principal District Court, Pondicherry.

2.The petitioner filed the suit against the respondents for declaration, dissolution of partnership firm and for a direction to furnish the accounts. Originally, the suit was filed before the Principal Sub Court, Pondicherry and the same was numbered as O.S.No.119 of 1999. The respondents raised preliminary issue with regard to pecuniary jurisdiction, by filing I.A.No.658 of 2005. The said I.A. was allowed by the learned Principal Subordinate Judge, Pondicherry on 23.12.2008. The learned

Principal Subordinate Judge, Pondicherry assessed the value of the suit property as Rs.37,49,004/- and 1/4th share of the petitioner as Rs.9,37,251/- and decided the preliminary issue. Again, the respondents filed a petition under Order XIV Rule 2 r/w Section 151 of C.P.C., to decide the issue of valuation and payment of Court fee as preliminary issue. The learned Principal Subordinate Judge, Pondicherry allowed the I.A. and held that the Principal Sub Court has no jurisdiction and ordered to return the plaint with all the documents to the petitioner, to be presented before the Court having pecuniary jurisdiction. The petitioner presented the said plaint before the Principal District Judge, Pondicherry, valuing his share of the suit property at Rs.1,00,000/- and paid the Court fee accordingly. The learned Principal District Judge, Pondicherry, held that the learned Principal Subordinate Judge has already decided the preliminary issue regarding valuation of the suit and as per Section 36 (1) of the Pondicherry Court Fees and Suits Valuation Act, 1970, “in a suit for dissolution of partnership and accounts or for accounts of dissolved partnership, fee shall be computed on the value of the plaintiff's share in the partnership, as estimated by the plaintiff” and hence, without paying

the proper Court fee, the petitioner cannot present the suit and ordered to return the plaint to the petitioner for affixing appropriate Court fee.

3. Against the said order of the learned Principal District Judge, Pondicherry, dated 09.07.2014 made in O.S. SR.No.15215 of 2013, the petitioner has come out with the present Civil Revision Petition.

4. When the Civil Revision Petition is taken up for hearing, the learned counsel appearing for the petitioner submitted that the petitioner is ready to pay the Court fee as ordered by the learned Principal District Judge, based on the amount fixed by the Principal Subordinate Judge and prayed for a liberty to pay the deficit Court fee and re-present the plaint.

5. Though notice has been served on the respondents 2, 3 and 5 and their names are printed in the cause list, there is no representation for them either in person or through counsel.

6.Mr.P.Veeraraghavan, learned counsel appearing for the respondents 1 and 6 submitted that the respondents 1 and 6 have no objection for the petitioner to re-present the plaint with deficit Court fee and prayed for a direction to the learned Principal District Judge, Pondicherry to dispose of the case at the earliest.

7.Heard the learned counsel appearing for the petitioner as well as the respondents 1 and 6 and perused the entire materials available on record.

8.Considering the above submissions of the learned counsel appearing for the petitioner and the respondents 1 and 6 and the fact that the petitioner is now ready to pay the deficit Court fee, the petitioner is granted six weeks time to re-present the plaint before the Principal District Judge, Pondicherry, by paying deficit Court fee, as ordered by the learned Judge, payable on the value of the share of the petitioner on the suit property as fixed by the learned Principal Subordinate Judge, Pondicherry. On such re-presentation, the learned Principal District Judge, Pondicherry,

is directed to number the plaint, if it is otherwise in order and decide the suit as early as possible, since the suit was earlier numbered in the year 1999. In any event, it is open to the respondents to raise their defence by way of written statement.

With the above direction, this Civil Revision Petition is disposed of.
No costs. Consequently, connected Miscellaneous Petition is closed.

02.09.2021

Index :: Yes/No
gsa

To

The Principal District Judge,
Pondicherry.

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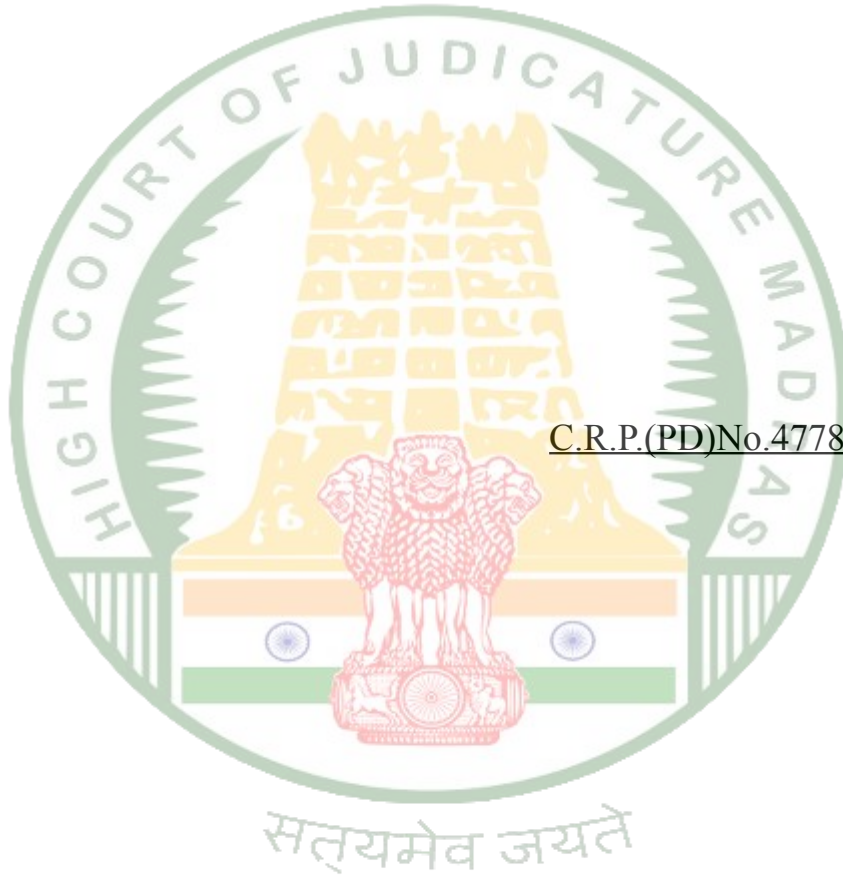


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V.M.VELUMANI, J.

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