

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM

THE HON'BLE Mr. JUSTICE **G.K.ILANTHIRAIYAN**

C.R.P.(PD) No.3951 of 2018

P.Vijayaraja

..... Petitioner

Vs

1.E.Chinnathambi
2.T.Kandasamy
3.S.Kuppusamy
4.The District Collector,
Collectorate,
Salem District,
Salem-1
Respondents

Prayer :- Civil Revision Petition is filed under Article 227 of the Constitution of India against the dismissal order in POP.No.285 of 2015 in unnumbered OS.No. Of 2015 dated 27.09.2018 on the file of the Principal District Judge, Salem.

For Petitioner : Mr.K.Sathish Kumar

For Respondents

R1 to 3 : No appearance
R4 : Mr.A.E.Ravichandran,
Government Advocate(CS)

ORDER

This Civil Revision Petition is filed against the dismissal order in POP.No.285 of 2015 in unnumbered OS.No. Of 2015 dated 27.09.2018 on the file of the Principal District Judge, Salem, thereby dismissing the petition seeking permission to file suit on pauper without payment of court fees.

2. The petitioner is the plaintiff and the respondents are the defendants. The petitioner filed suit for recovery of money. The case of the petitioner is that he intended to purchase the suit property belongs to the defendants 1 and 2 herein and paid a sum of Rs.12,50,000/- as an advance. Thereafter they failed to execute sale deed in his favour and as such he caused notice and filed suit for recovery of money, which was paid as an advance with interest. Therefore, the petitioner filed suit for recovery of money to the tune of Rs.40,49,833/- with interest at the rate of 12% per annum. While filing the suit, the petitioner also filed petition to treat him as pauper and seeking permission to file suit on pauper without payment of court fees.

3. On perusal of the affidavit filed in support of the pauper original petition, it is seen that the petitioner simply averred as if the petitioner has no other property and he had no bank balance. Therefore, he could not able to pay court fees. Therefore, admittedly the petitioner failed to comply the condition as contemplated under Order Rule 33 (5) (c) of CPC. In the absence of pleadings, and also absence of any amount of evidence, the petitioner cannot be declared as indigent person. Therefore, the court below rightly dismissed the petition and this Court finds no infirmity or illegality in the order passed by the court below.

4. Accordingly, this civil revision petition is dismissed. However, the petitioner is directed to pay the court fees within a period of two weeks from the date of receipt of copy of this order. No order as to costs.

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

G.K.ILANTHIRAIYAN,J.

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To

The Principal District Judge,
Salem.



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