



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.07.2021

PRONOUNCED ON : 16 .07.2021

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CRP (MD)No.1422 of 2014

MP (MD)No.1 of 2014

(Through Video Conferencing)

WEB COPY

Kalaichelvan

...Petitioner/Petitioner/
Defendant

Vs

1.Rani
2.S.Kumar
3.Sangeetha

...Respondents/Respondents/
plaintiffs

Prayer:- This Civil Revision Petition filed, under Article 227 of the constitution of India, against the order dated, 02.06.2014, made in IA.No.364 of 2014 in OS.No.92 of 2014, by the District Munsif Court, Thuraiyur.

For Petitioner : Mr.K.S.Sankar Murali

For Respondents : No Appearance

ORDER

1.This Civil Revision Petition has been filed, against the order dated, 02.06.2014, made in IA.No.364 of 2014 in OS.No.92 of 2014, by the District Munsif Court, Thuraiyur.

2.The facts of the case, in a nutshell, are that the Defendant is the Petitioner and the Plaintiffs are the Respondents. The suit was filed for declaration of title and permanent injunction. In the suit, the Defendant had filed the above application, to reject the plaint for want of necessary court fee. Since the said application was dismissed, by the impugned order, this Civil Revision Petition has been filed.

3.The learned counsel for the Petitioner has submitted that the court below having held that the suit ought not to have been taken on file, ought not to have dismissed the application and that when there is no cause of action and the plaint is an abuse of process of law and when the plaint averments are sufficient to reject the plaint, as the prayer is not consonance with the averments made in the plaint, the plaint should have been rejected and for such reasons, he would pray for allowing this Civil Revision Petition, by rejecting the plaint.

4.This court heard the learned counsel for the Petitioner and considered his submissions and also carefully perused the



materials placed on record. There is no representation for the Respondents.

5.The contention of the Petitioner is that when the suit was filed for declaration and permanent injunction, the suit filed, by paying court fee only for permanent injunction, is not maintainable. It was the contention of the Respondents that the prayer for declaration was wrongly included and subsequently, it was removed on an application and only for the prayer of permanent injunction, necessary court fee was paid and hence, the suit is maintainable.

6.The court below has found that in IA.No.365 of 2014, seeking to strike off the prayer for declaration, was allowed. Thus, the only prayer available is for permanent injunction, for which, the Court fee was paid. When there is no prayer for declaration, payment of necessary Court fee does not arise for such a prayer and hence, the contention of the Defendant that the necessary court fee for the prayer of declaration was not paid cannot be sustained. In such view of the matter, the court below is justified in dismissing the application, by the impugned order, warranting no interference by this Court.

7.In fine, this Civil Revision Petition is dismissed. No costs. Consequently, the connected MP is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Srcm

To

1.The District Munsif, Thuraiyur

+1 CC to M/s.K.S.SANKAR MURALI, Advocate (SR-22821[F] dated 16/07/2021)

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16.07.2021

RD(2.08.2021) 2P 3C