



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE:15.09.2021.

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

C.R.P (NPD) No.1690 of 2014

1. P.Gopalakrishnan  
2. Kanagasundari

..Petitioners

vs.

T.Sankaran

...Respondent

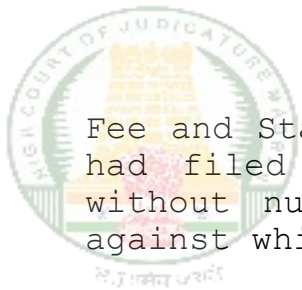
Civil Revision Petition filed under Section 115 of the Code of Civil Procedure to set aside the fair and decreetal order passed in Unregistered I.A.No.of 2014 in O.S.No.101 of 2011 on the file of the Principal District Munsif Court, Tirunelveli dated 28.02.2014.

For Petitioners : Mr. T.Selvan  
For Respondent : Mr.G.Prabhurajadurai

ORDER

This petition has been filed to set aside the fair and decreetal order passed in the unnumbered Interlocutory application of the year 2014 in O.S.No.101 of 2011 on the file of the Principal District Munsif Court, Tirunelveli dated 28.02.2014.

2. The petitioners are plaintiffs in O.S. No.101 of 2011. The suit was filed for declaration and injunction. The respondent had filed written statement and the Trial Court framed charges and evidence on the side of the plaintiffs as well as evidence on the side of the defendant were closed as early as on 21.05.2012. At that stage, the respondent/defendant had filed additional written statement on 02.08.2012 and the Trial Court framed additional issues on 18.12.2012 and subsequently evidence on the side of the plaintiffs as well as evidence on the side of the defendant was closed on 30.08.2013. Thereafter the case was posted for arguments, during the period between 07.10.2013 and 12.10.2013 and on 12.10.2013 the case was reserved for judgment. While so on 19.12.2013 the Trial Court without giving opportunity to the plaintiff *suomotu* raised additional issue without putting either parties on notice framed additional issue regarding pecuniary jurisdiction and without giving sufficient opportunity or without hearing both parties had delivered the judgment on 19.12.2013. The trial Court without following the procedures contemplated under Order 14 Rule 2 of the Code of Civil Procedure and Section 12(2) of the Tamil Nadu Court



Fee and Stamp Valuation Act had dismissed the suit. The petitioner had filed a review within time. However the Trial judge even without numbering the review application had dismissed the same, against which the present revision has been filed.

3. The learned counsel for the petitioner would submit that though there are valid legal grounds in favour of the petitioner, he is not insisting for them before this Court and he would submit that the order of the Court without numbering the Application is illegal. He would further submit that whenever an Application is filed, the Court concerned is bound to number the Application and dispose of the same in accordance with law, whereas the Trial Court has committed illegality by not numbering the Application. He would also submit that the order passed by the Trial Judge suffers from apparent error. He would further submit that it is settled proposition that the application would be disposed on merits only after numbering the same unless the same is not maintainable. In support of his contention, he also relied on the order passed by this Court in the case of **G.V.Vanitha .vs. K.Dhanasekaran** reported in **2016(5) CTC 329**.

4. The learned counsel for the respondent would submit that the Trial Judge rightly finding that the petition is not maintainable, had dismissed the same and there is no error in the order passed by the learned Trial Judge.

5. Heard the learned counsel appearing on either side and perused the materials available on record.

6. Against the order of the dismissal of the suit, the petitioner had raised certain valid grounds. The learned Trial Judge by a cryptic order, had rejected the petition even without numbering the same. In the opinion of this Court, the Trial Judge should have given an opportunity to the counsel for the petitioner to put forth his case. It is the settled proposition that an Application can be disposed of on merits only after numbering unless the same is not maintainable. It is relevant to refer to para.12 of the Judgment referred supra.

12. In the case on hand, the Rent Controller had not dismissed the petition. He had rejected the petition without numbering the same. It is a settled position that an application can be disposed of on merits only after numbering, unless the same is not maintainable. It is not the case of the petitioners that the application is not maintainable. When the application is maintainable, the Rent Controller should have numbered the application and disposed of the same after giving opportunities to both sides. Since the application was dismissed by the Rent Controller, the ratio laid down by

this Court reported in 1991 (2) L.W 272 (R. Mani vs



*Shanmugham and 2 others), squarely applies to the facts and circumstances of the case. Hence the order of remand made by the Rent Control Appellate Authority is just and proper.*

7. In view of the same the order passed by the Principal District Munsif Court, Tirunelveli in the unnumbered Interlocutory application of the year 2014 in O.S.No.101 of 2011 dated 28.02.2014 is set aside and the revision is allowed. The matter is remitted back to the Principal District Munsif Court, Tirunelveli. The trial Judge shall number the Interlocutory Application and dispose of the same on merits and in accordance with law.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar(CS)

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To

The Principal District Munsif Court, Tirunelveli

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate ( SR-29295[F] dated 16/09/2021 )

C.R.P(NPD) No.1690 of 2014  
15.09.2021

DJ(CO)

KB(22.09.2021) 3P 3C