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C.M.A(MD).



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

and

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

C.M.A(MD) .No.1076 of 2021

Palanithurai

... Appellant/Petitioner

Vs.

- 1.Chandra
- 2.Murugaraj
- 3.Balaganesan
- 4.Valliyammai
- 5.Manikandan

6.Papanasam Municipality,
represented by its Executive Officer,
Bust Stand Road,
Papanasam Taluk,
Thanjavur District.

7.The Sub-Registrar,
Sub Registrar's Office,
Katchery Road,
Papanasam Taluk,
Thanjavur District.

8.The District Registrar,
District Registrar's Office,
Dr.Moorthy Road,
Kumbakonam Taluk,
Thanjavur District.

9.The District Collector,
District Collector's Office,
Vallam Road,
Thanjavur District.

... Respondents/Respondents

PRAYER: Civil Miscellaneous Appeal filed under Order 43 Rule 1(na) read with 104 of the Civil Procedure Code, to set aside the order and decree, dated 23.08.2021 made in Pauper Original Petition in P.O.P.No.178 of 2018 on the file of the Principal District Court, Thanjavur.

For Petitioner

: Mr.G.Gomathi Sankar

**JUDGMENT****S. VAIDYANATHAN, J.****and****DR. G. JAYACHANDRAN, J.**

On perusal of the impugned order challenged in this appeal, this Court finds that the Court below has declined to grant exemption of payment of court fee to the petitioner herein, who claims to be a pauper. While declining, the Court has stated that the provision of law under which the court fee to be paid is not in consonance with the relief sought for.

2. According to the Court below, the suit is for declaration of four sale deeds as void and to cancel all deeds to which the appellant herein is not a party, however, the relief prayed and the provision of Tamilnadu Court Fees Act under which court fees payable does not synchronize.

3. The learned counsel for the appellant would submit that under Order 33 Rule 15-A of C.P.C., if the Court feels that the petitioner is not an indigent person to lay a suit as a pauper, a timeframe ought to have granted for him to pay the court fee, whereas in the impugned order, the trial Court has not granted any time, but only gone on the merits of the relief sought and the provision of law and dismissed the same.

4. The learned counsel would further submit that the appellant will be satisfied, if time is granted for payment of court fee as contemplated under Order 33 Rule 15-A of C.P.C., instead of going into the merits of the indigency of the appellant.

5. Recording the same, this Civil Miscellaneous Appeal is disposed of with a direction to the appellant to pay the Court fee within a period of four weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PJL

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate/litigant concerned.

<https://www.mhc.tn.gov.in/judis>



To

The Principal District Judge,
Thanjavur.

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COPY TO:-

1.The Sub Assistant Registrar,
CO Section,
Madurai Bench of Madras High Court,
Madurai.

2.The Section Officer,
V.R.Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1 CC to M/s.G.GOMATHISANKAR, Advocate (SR-37516[F]
dated 06/12/2021)

**C.M.A(MD) .No.1076 of 2021
06.12.2021**

SE (CO)
GC (31.12.2021) 3P 6C