



C.R.P.(PD) No.676 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 04.04.2022

CORAM : JUSTICE N.SESHASAYEE

C.R.P.(PD) No.676 of 2020

1.Mahalingam
2.M.Mala
3.V.Mahalakshmi
4.B.Vinoba
5.B.Navaneethan

... Petitioners / Plaintiffs

Vs.

1.V.Kumaravel
2.S.Senthilkumaran
3.D.Sitrarasu
4.S.Kanagarajan
5.D.Rajasekar
6.S.Ravi
7.M/s.K.P.Civil Construction Private Limited
Represented by its Managing Director
Mr.K.Prabhu

8.The Sub Registrar Selaiyur
Having Office at Selaiyur
Chennai – 600 073.

9.The District Collector
Chengalpattu
Having office at Chengalpattu.

... Respondents / Defendants



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Prayer : Civil Revision Petition filed under Article 227 of the Constitution of India, praying to set aside the order returning the plaint dated 04.02.2020 in un-numbered O.S.No. of 2020 in S.R.No.194 of 2020 on the file of the Principal District Munsif, Alandur and consequently direct the Court below to number the plaint filed in un-numbered O.S.No. of 2020 in S.R.No.194 of 2020 on the file of the Principal District Munsif Court at Alandur.

For Petitioners : Mr.M.Thangadurai
For Respondents : Mr.G.Vijayakumar [R6 7 R7]
 Mr.P.Harish
 Government Advocate [R8 & R9]

ORDER

This revision is filed challenging the order of the trial Court returning the plaint vide a speaking order. The point involved is whether the plaintiffs need to pay court fee under Section 25(d) or Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act.

2. The case of the plaintiffs appears to be that they had executed a Power of Attorney in favour of certain person as a security for the debt. But, such Power of Attorney so nominated had misused the said authority, played



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fraud on them and went about executing the document in favour of the third parties.

3. The trial Court has taken a view that inasmuch as the plaintiffs' agent had executed the documents, the plaintiffs might have to pay the Court fee under Section 40 of the Act, since the acts of the agent binds the principal.

4. Heard the learned counsel for the petitioner and Mr.G.Vijayakumar, learned counsel for the respondents 6 and 7.

5. This Court *prima facie* finds merit in the line of approach of the trial Court. While the prayer in the revision is to direct the trial Court to number the suit, given the settings in which the plaintiffs find themselves in, their counsel made a statement on instruction that they are willing to pay the requisite Court fee under Section 40 of the Tamil Nadu Court Fees and Suit Valuation Act, and would also present the plaint before the proper Court. Since, the plaintiffs have chosen to abide by the impugned order of the trial Court, there is hardly anything in this revision, that remains to be considered.



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6. The revision is disposed of accordingly. No costs. This Court now directs the plaintiffs to present the plaint before the proper Court within 30 days from the date of receipt of a copy of this order.

7. The learned counsel for the plaintiffs / revision petitioners was worried that the limitation should not intervene, but then, it is only a matter relating to re-presentation of plaint for payment of court fee under an appropriate section of the Court fees Act, and this will not intervene to create any issue on limitation.

04.04.2022

Index : Yes / No

Internet : Yes / No

Speaking order / Non-speaking order

ds

Note : Issue order copy on 08.04.2022

To:

The Principal District Munsif
Alandur.



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N.SESHASAYEE.J.,

ds

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