



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

C.M.A.No.612 of 2018
and
C.M.P.No.5402 of 2018

Ponnusamy

...Appellant/Petitioner

Vs.

1.M/s.Amba Eletronics,
Rep. By its Partner P.Balasubramanian,
Office at No.45, G.V.Ramasamy Gounder Street,
Rathinapuri, Coimbatore - 27.

2.P.Balasubramanian

3.P.Kanakarathinam

4.M.Selvakumar

5.S.Muthiah

6.Ponnusamy

7.Gurusamy

8.M/s.Punjab and Sind Bank,
Rep. By its Authorised Officer,
Head Office at Bank House,
21, Rajendra Place, New Delhi.
And Branch Office situated at
424, Oppanakara Street, Coimbatore - 642 001.

9.T.Murugan

10.The District Collector,
Coimbatore District,
Coimbatore.

..Respondents/Respondents

Prayer: Civil Miscellaneous Appeal filed under Order 43 Rule
1(u) of C.P.C., against the order and decree dated 03.11.2017 in



P.O.P.No.308 of 2014 on the file of the Principal District Judge, Coimbatore.

WEB COPY

For Appellant : Mr.R.Rajarajan

For Respondents : Mr.Ma.P.Thangavel for R3

Mr.K.Chandrasekaran

for R2, R4, R5, R6, R7 & R9

Dr.S.Suriya,

Additional Government Pleader

for R10

No Appearance - R1 & R8

J U D G M E N T

This appeal has been filed questioning an order dated 03.11.2017 in P.O.P.No.308 of 2014, which had been filed by the appellant herein seeking permission to institute a suit in forma pauperis / as an indigent person and seeking to avoid payment of Court fees and rather seeking a direction that the Court fees can be deducted from the decree if at all passed in favour of the appellant.

2.The facts appear to be a little complicated but they can be reduced in simple terms. The appellant was a partner of the 1st respondent. The learned counsel says that the appellant is a sleeping partner. The 1st respondent has other partners namely, respondents 2nd, 3rd and 4th respondents. The partnership firm wanted loan and therefore, for obtaining loan, title deeds had to be deposited. The title deeds of the properties of the appellant were deposited with the 8th respondent / Punjab and Sind Bank and loan was obtained by the 1st respondent partnership firm.

3.On the receipt of the loan amount, it is alleged by the appellant that the 2nd, 3rd and 4th respondents / other partners had purchased a property, which is now the subject matter of a suit, which has been instituted by the appellant. The loan was not repaid. Therefore, the appellant was under compulsion to repay the loan to obtain back his title deeds. He repaid the loan and got back the title deeds.

4.Thereafter, he had instituted the suit seeking a declaration that he is the owner of the property, which was



purchased by the 2nd, 3rd and 4th respondents on the basis of the loan, which they had received from the 8th respondent bank. These are all issues, which can be decided only during the course of trial.

WEB COPY

5.The appellant then filed an application seeking exemption from payment of Court fees claiming indigency and claiming that he does not have the means to pay a sum of Rs.1,24,000/- which was the amount to be paid as Court fees in view of the valuation of the suit for declaration and injunction.

6.During the course of the order now questioned in this particular appeal, the learned District Judge, Coimbatore had observed that quite apart from the avocation of the appellant as a member of a particular political party holding the post of a Councilor, the appellant also has means namely, he has a house in his possession and had therefore rejected his claim that he should be declared as an indigent and that the suit should be permitted to be instituted in forma pauperis. Questioning that particular order, the appellant is before this Court.

7.I have heard Mr.R.Rajarajan, learned counsel for the appellant, Mr.Ma.P.Thangavel, learned counsel for the 3rd respondent, Mr.K.Chandrasekaran, learned counsel for the 2nd, 4th to 7th and 9th respondents and Dr.S.Suriya, Additional Government Pleader for 10th respondent.

8.The order under appeal, proceeds on the basis of an enquiry conducted by the Government / Collector of Coimbatore with respect to the means of the appellant herein / plaintiff. It was found that the appellant was the owner of a house. It was also found that the appellant was a member of a political party and that the said political party had recognized the appellant and had permitted him to contest the council elections and that he had also won the council elections. Naturally all this requires a flow of cash from the appellant and therefore, it had been observed that he should also pay some money towards the Court fees in accordance with the valuation of the suit.

9.I find no infirmity in that particular reasoning. It would only be advisable that the appellant pays necessary Court fees and proceeds further with the suit. The suit is pending without being numbered for the past eight years, and it would only be advantageous that it proceeds on a fast track on payment of Court fees. The defendants would also have been put to hardship in this period of eight years since they would not have



known whether the suit is going to be taken on file or not taken on file. Therefore, their interest will also be have to be balanced.

10.A direction is given that the appellant should pay the necessary Court fees on or before 30.06.2022 and proceed further with the suit. The Registry in Coimbatore may number the suit if it is otherwise in order and if it confirms to the various regulations required for numbering a civil suit.

11.With the said observations, this Civil Miscellaneous Appeal is dismissed. The appellant is directed to pay the Court fees as aforesaid. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

kkn

To-

1.The Principal District Judge,
Coimbatore.

2.The Section Officer,
VR Section, High Court,
Madras-104.

+1cc to the Government Pleader SR.No.24174

C.M.A.No.612 of 2018
and
C.M.P.No.5402 of 2018

KK(CO)
GN(05/05/2022)